

OPERATING, CAPITAL & INTERCITY APPLICATION PACKAGE For Calendar Year 2011

Office of Transit
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* Section 5311 funds are available for expenditure for public transportation projects. Public transportation is defined to mean mass transportation, either publicly or privately owned, which provides to the general public or special service on a regular and continuing basis.

APPLICANT INFORMATION FOR SECTION 5311 & 5311(f) ASSISTANCE

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<u>APPLICATION INSTRUCTIONS FOR SECTION 5311/5311(f) ASSISTANCE GRANTS</u>

INTRODUCTION

The Indiana Department of Transportation (INDOT), the Office of Transit (OT) makes Section 5311/5311(f) Operating assistance available to eligible applicants on a calendar year (January - December) basis. Capital assistance is available to eligible applicants on an 18-month (January – June) basis.

The purpose of this application package is to provide information, guidance, and a format for completing a request for Rural Transit Program grant assistance. The Office of Transit requires that Applicants use this format when developing an application. *Applicants* must submit one original and one copy for operating grants, or if you have a combined (operating & capital) grant, send one original and three copies.

Grant applications must be received by **April 30, 2010** for Calendar Year 2011 Projects. Applications must be complete and accurate. Applications shall be selected based on the results of a review process involving the Office of Transit staff and the Interagency Cooperation Group. The Section 5311 Management Plan discusses in further detail the application review and selection process. Copies of the Management Plan may be obtained from the Office of Transit. Applicants experiencing difficulty in completing the application may request assistance from the Office of Transit.

GENERAL INSTRUCTIONS

Answers should be complete, clear, and concise. The application should be completed on separate paper, except where standard forms or assurances are required. Also, it is important that the information be presented in the <u>same order</u> it is requested. **Existing Grantees** (those already receiving Section 5311 funding) may only request operating funds up to their formula allocation amount. Contact the Office of Transit if you have not received your funding allocation amount.

Note: New Applicants: An approved feasibility study must be completed to apply for funding assistance. Approval will be on a Demonstration Project basis, which INDOT is not obligated to fund beyond two years.

I. PROJECT DESCRIPTION

A. APPLICANT'S EXISTING SERVICES & SERVICE AREA

- 1. Identify the type and provide a brief description of the existing transportation services. For Brokerage Services, explain current demand handling and scheduling system and capabilities.
- 2. Provide a description of the service area (provide demographic, economic, and geographic information).
- 3. Identify the most current number of annual passengers (clientele) served or annual passenger (clientele) trips provided. Please indicate the year.
- 4. Provide a breakdown of types of passengers (clientele) served by major population groups (e.g., elderly, low income, minority, disabled, etc.)

B. PROPOSED PROJECT

- 1. OPERATING PROJECTS
 - a. Identify the type(s) of services to be provided through this grant:
 - (1) <u>Fixed Route</u>: Identify the number of routes and the frequency of service (i.e., headways).
 - (2) <u>Demand Responsive</u>: Identify the type of demand responsive service (e.g., immediate response, shared ride taxi, countywide dial-a-ride with prearranged trip request, etc.).

- (3) <u>Point-Deviation</u>: Identify the number of routes, the frequency of service (i.e., headways), and the number of fixed points or designated stops.
- (4) <u>Subscription Service</u>: Identify the service arrangements. Briefly explain the service(s) provided.
- (5) Intercity Fixed Route: Identify the number of routes & the trip times (i.e, time of day).
- (6) <u>Intercity Feeder Service</u>: Identify type of service(s) and arrangements for linking up with regular intercity fixed route carrier.

For demand responsive, subscription service and brokerage service describe the service area characteristics, days and hours of service, number of vehicles in service, and fare structure for all ride categories, including any discount categories.

If the service is *fixed route or point-deviation*, include a route map. If the service is demand responsive or other, include a service area map and identify the areas to receive the proposed transit service.

- b. Under all service types indicate whether the proposed project is a continuation of existing, expansion, or new service.
- c. Describe any special programs or services for target groups (such as the elderly, disabled, or minorities).

[] Replace existing capital items: [] Add needed capital items: [] Improve existing programs or service (identify programs or service to be improved):	
<u> </u>	
[] Improve existing programs or service (identify programs or service to be improved):	

2. CAPITAL PROJECTS: Generally this project is to (check appropriate category and provide brief

C. PROJECT IMPLEMENTATION

1. OPERATING BUDGET- 5311/5311(f) - ATTACHMENT 1

[] Expand existing or develop new programs or service (identify): ____

The project budget should be prepared using projections for only those costs which are expected to be incurred in operating the system. The federal share of eligible expenses shall not exceed 50 percent of the Net Operating Expense. *Net Operating Expense* is the difference between the total operating expenses and total farebox and other revenues. Expense and revenue definitions are provided in **Appendix A**.

Where possible, budget estimates should be based on previous actual expenses. Line items should be itemized according to the standard line items and definitions as listed in this application package. It is particularly important that the itemization of revenues and expenses be sufficient for the Office of Transit to verify the calculations of eligible operating expenses, net project cost, local match, and eligible Section 5311/5311(f) assistance. *All figures must be rounded to the nearest dollar.*

Brokerage Services Grants should use the operating budget. Revenues generated from brokerage user fees should be identified under revenue Category 406, if applicable.

Please note that the stated intent of the Section 5311/5311(f) program is to <u>augment</u> and not to replace existing transportation funding.

BUDGET WORKSHEET AND ANALYSIS - ATTACHMENT 2

The Project Budget represents an estimated expense and revenue statement for the project year. At a minimum, the methodology for obtaining sound estimates involves:

- a. an analysis of the previous year actual expenses and revenues;
- b. projecting the current year actual expenditures to date; and;
- c. estimating the proposed year figures based on items one and two.

Evidence that the data was used in developing the proposed year project budget shall be included in the application and be prepared in the format provided. *An explanation of the escalation or inflation factors used in developing the line item expenses and revenues must be provided with Attachment 2.*

CAPITAL BUDGET – 5311/5311(f) – ATTACHMENT 3

NOTE: The Capital Budget Section needs to be filled out when applying for assistance in excess of \$5,000. Projects less than or equal to \$5,000 should be included in the operating budget as line Item 517 - Equipment.

a. The budget must be developed in accordance with the format provided. It is particularly important that the itemization of expenses and local match be sufficient for the Office of Transit to verify the calculations of eligible capital expenses, total expenses, local match, and eligible Section 5311/5311(f) assistance. In addition, a concise description for each line item (activity) must be provided.

The following definition and guidance will be used by the Office of Transit as the basis for determining whether a particular item is eligible for capital funding:

The item requested is tangible, non-expendable personal property which

- (1) has a useful life of more than one year, and
- (2) has an acquisition cost of \$300 or more per unit.

Any transit related equipment that meets these two criteria will be eligible for funding in a capital project. Equipment that fails to meet the first criteria will not be eligible for capital funding.

b. Eligible Expenses include vehicles, wheelchair lifts, tie downs, communication systems and installation costs, passenger shelters, major maintenance and office equipment, and construction or renovation of transit facilities. The federal share of eligible expenses shall not exceed 80 percent of the Total Capital Expense.

The following are areas of capital expenses that should be considered in developing a budget. These areas are intended only as guidance. **Each capital assistance budget request will need to have both a SCOPE and an ACTIVITY code.** An example is provided in **Appendix B**. The scope and activity codes give a broad description of the purpose of the project.

- c. Eligible Local Share: Please look at <u>Item 6 Eligible Local Share for Operating and Capital</u> **Grants** on **ATTACHMENT 1.**
- d. Purchase of vehicles: Applicants requesting vehicles should first review the Office of Transit document "Considerations in Selecting a Vehicle". Copies of this document are available from the INDOT.

4. INTERCITY PLANNING &/or MARKETING BUDGET (Attachment 3)

a. Generally, Planning projects which are estimated to be from six to twelve months in duration are considered short range projects and require the Activity Code 41.14.00. Those projects

- that exceed twelve months are considered comprehensive and should use the code 41.12.00. Marketing projects are viewed as part of project administration and require use of the code 11.79.00.
- b. Eligible Planning and/or Marketing activities include the promotion of new and existing intercity transportation programs as well as research to determine the *feasibility* of establishing an intercity transportation program. The federal matching funds are limited to 80% of the Total Project Costs.
- 5. PROCUREMENT (Only complete if applying for a capital grant or an operating grant with purchased transportation.)
 - a. Do you have staff or have access to staff that has procurement experience? Are they familiar with state and federal procurement regulations?
 - b. If you do not have staff with procurement experience, then explain who will administer and implement the procurement process.
 - c. Identify the proposed procurement methods to be used to purchase the requested equipment or service (e.g., formal advertising, sealed bid, state quantity purchase award, etc.).

6. SYSTEM OPERATION

- a. <u>Organization:</u> Describe the organization of the existing or proposed transit system. Be specific, particularly as it relates to defining management and operations functions and lines of responsibility. Also, please attach an organizational chart depicting this information.
- b. Service Provider (identify who will provide the service).
 - 1) The applicant;
 - 2) A private for-profit company or non-profit organization under contract with Applicant. Provide a list of potential private transportation companies which may bid on the transit services contract;
 - 3) Brokerage Services Applicants must list the name of the Broker and the name, address, and telephone numbers of all public and private transportation operations located within the service area.
- c. <u>Management Plan:</u> Describe in detail the level of experience the transportation management and operations personnel have in operating or brokering (if applicable) a transportation program.
 - Identify who will perform the maintenance and provide a clear and detailed explanation of the maintenance program. (Note: the Office of Transit expects all Applicants requesting vehicles, to have a plan for a preventative maintenance program. Brokerage Services Applicants do not need to answer this question.)
- d. Marketing Plan: Describe the goal of the number of passenger boardings that you hope to achieve in the next calendar year. Describe any existing and proposed promotional techniques and programs to attract ridership. At a minimum, the Office of Transit expects all applicants to design some basic public information (bus schedules, ride guides, etc.) and develop a plan for its dissemination.

7. SYSTEM PERFORMANCE

- a. Describe in detail any planned procedures for monitoring and evaluating the transit system's performance. Also, identify performance standards that will be used in this monitoring program.
- b. Describe any techniques planned or implemented that will help contain transit operating costs and maximize operating revenues.
- c. Brokerage Service Grants are required to show "improved vehicle productivity, reduced unit costs of operations and services, and expanded service." Describe planned procedures for doing this.

II. COORDINATION/PUBLIC PARTICIPATION

A. COORDINATION WITH OTHER TRANSIT PROVIDERS

A prerequisite for receiving Section 5311/5311(f) transit assistance is documentation of efforts to include or at least encourage participation by public, private for-profit and non-profit transit providers. Applicants must provide reasonable notice to all transit providers in their service area regarding proposed services.

The grant application must include the following information:

- 1. Documentation of current efforts to include other public, private and non-profit providers (in your service area) in the coordination of local transportation services, including minutes from all meetings, hearings, forums, etc.:
- 2. A brief description of the current efforts to include public, private and non-profit providers (in your service area) in the development of the current grant application, including all forums, meetings, hearings, and other opportunities;
- 3. A brief description of the process for resolving complaints by public, private for-profit and non-profit transit or paratransit providers concerning the proposed project. In the event a complaint cannot be resolved locally, it may be appealed to the Office of Transit in accordance with the procedures outlined in Section VI of the Section 5311 State Management Plan. The applicant is responsible for informing the transportation provider of the local and state appeal process.

B. PUBLIC INVOLVEMENT

- 1. Public involvement is essential to providing service that will effectively satisfy the mobility needs of the community:
 - a. Describe efforts to involve the public in planning this service and preparing the grant application;
 - b. Identify any local transportation advisory committees or board(s) and provide a membership list. If no such committee or board exists, the Office of Transit strongly recommends the establishment of one as a part of the public participation process for the transit service.
- Public Hearing Requirement (Capital Grants only).
 - a. Each Applicant shall either hold a public hearing or provide the opportunity for a public hearing on the proposed capital assistance project. Sample formats for notice of public hearing and notice of opportunity to hold public hearing are provided in **Appendix C & D**.

A legal notice must be published once in a newspaper of general circulation in the Applicant's service area, and where applicable in the local newspapers oriented to the minority population. The notice of public hearing or notice of opportunity to hold a public hearing must be published no less than 10 days prior to the date of the hearing.

All notices must be published in accordance with procedures outlined in Indiana Code 5-3-1. Each applicant must submit <u>proof of publication</u> from the publisher in the grant application (publisher's claim & publisher's affidavit).

If a notice of opportunity to hold a public hearing is published, the Applicant should answer questions and address problems that interested parties have pertaining to the project. In this case, documentation must be included in the application that discusses the questions, problems, and their resolution. If written requests for a public hearing are received that warrant a hearing being held, the Applicants must follow the procedures for advertising and holding a public hearing.

If a hearing is held, a certified verbatim transcript of that hearing must be included in the application. The applicant must address any substantive comments raised during the hearing.

C. COORDINATION

The Section 5311/5311(f) Program wishes to encourage coordination efforts that maximize the financial, operating and capital resources within a transportation service area.

The current section 5311/5311(f) applicant must document coordination activities by including the name, address and telephone numbers of all community elements with which it has coordinated. The applicant should list coordination partners under the following headings as applicable:

- 1. Operations (routing, scheduling, dispatching, contracting services, etc.)
- 2. Maintenance (vehicle maintenance, storage, maintenance related purchasing etc.)
- 3. Administration (personnel, training, vehicle procurement, insurance, advertising, etc.)
- 4. Information (funding sources, needs assessments, general info, etc.)

III. PROJECT JUSTIFICATION

A. NEEDS ASSESSMENT

- 1. Please identify the transportation need(s) this grant will address. Include an estimate of the annual one-way passenger (clientele) trips to be provided.
- 2. How was the need, identified in question number 1 determined? Please attach any supporting documents such as, summary of survey results, planning studies, etc.
- 3. How do existing transportation services not meet this need?
- 4. How was the need for the Capital items identified in the Capital Project Budget determined? If adding or replacing a vehicle, justify need for the type of equipment you have requested. If requesting a non-lift equipped vehicle, describe how you will provide equivalent service to persons with disabilities.
- 5. Vehicle Inventory **ATTACHMENT 4** Include all vehicles in your transportation fleet. **Identify all vehicles that have been replaced but are still on your inventory.** Mark vehicle(s) that this request would replace with an asterisk (*). For information on useful life of vehicle types, see Sec. V, in the Section 5311 Program Manual.

B. MEETING NEEDS

- 1. How will this project meet the identified needs? For Brokerage Services Applicants, only a consent form signed by each passenger transportation provider agreeing to use the broker and to coordinate service must be provided.
- 2. How will this project complement, rather than compete with or duplicate existing services?
- 3. (Capital Grants Only): Identify how each capital item will meet needs.

C. ALTERNATIVES ANALYSIS

- (New Applicants Only): Explain the methods used in selecting the type of service (e.g. fixed-route, demand-response, etc.) and efforts to ensure that elderly persons and persons with disabilities can access the service. Please refer to Sec. III in the Section 5311 Program Manual for additional guidance.
- (Capital Grants Only For Purchase/Construction of a Facility): The Office of Transit requires all
 Applicants to conduct an Alternative Analysis when requesting funds to purchase an existing
 facility or to construct a new facility. This analysis may either be conducted by the Applicant or by

a consultant under contract with the Applicant. If the Applicant decides to hire a consultant to do the work, this should be included in the capital application as the first phase of a facility project. The result of this phase will be used to justify subsequent capital funding request for a facility.

The Alternative Analysis must, at a minimum, include the following:

- Facility Needs Assessment: Identify the need and purpose for a Transit Facility, and explain the minimum space requirements for storage, maintenance, administrative office, and other functions.
- b. Alternative Analysis: The Applicant must establish evaluation criteria for reviewing the facility needs assessment. The Office of Transit recommends the following minimum criteria (items 4 and 5 only apply to existing facility):
 - 1) Location of land or existing facility. Include real estate descriptions, maps, etc.
 - 2) Environmental classification of alternatives as categorical exclusions. An alternative that can be documented as a categorical exclusion will reduce project costs and the time necessary to complete the project.
 - 3) The cost of each alternative must be a consideration in the selection process.
 - 4) The suitability of existing facility for transit use. Consideration should be given to renovations or improvements that may need to be completed in order for the facility to be made functional for transit use.
 - 5) Age and condition of the existing facility.
 - 6) Other criteria as established by the Applicant.
- c. Identify all facility alternatives considered.
- d. Document the process for evaluating the alternatives in making a decision on which alternative shall be pursued.

IV. FTA REQUIREMENTS AND CERTIFICATIONS

A. CERTIFICATIONS & ASSURANCES

- 1. Authorizing Resolution All Applicants must have formal authorization from their governing body before filing the application. Sample format provided in **Appendix E**.
- 2. Standard Certifications and Assurances Several laws and administrative requirements apply in common to all Federal grant-in-aid programs, and therefore apply to the Section 5311 Program. To cover these requirements in making grants, the Office of Transit employs a "Standard Certification and Assurance" which Applicants must submit with their grant application. This is a statement that the Applicant and recipient will comply with laws and regulations, cited herein and contained in the FTA Master Agreement, to the extent they may apply to the grant along with affirmation of the Applicants Attorney. The Assurance format is provided in ATTACHMENT 5. only return pages 44 & 45.
- 3. Local Assurances In order to receive a grant under the Section 5311/5311(f) Program, the Applicant must assure that certain requirements have been met or will be met if the grant application is approved. The Applicant must make these assurances with their Section 5311/5311(f) grant application that is submitted to the Office of Transit. This assurance format is provided in ATTACHMENT 6.
- 4. Disadvantaged Business Enterprise Program Requirements
 - a. All recipients of Section 5311/5311(f) funds must meet the requirements of the U.S. D.O.T.'s Disadvantaged Business Enterprises Regulations 49 CFR, Part 23 & 26, as amended. Under Section 1003(b) of the Intermodel Surface Transportation and Efficiency Act, minority and women are presumed to be socially and economically disadvantaged. Accordingly, a recipient's projected utilization of minority and women-owned firms should be included in a single DBE goal. Requirements for FTA recipients are described in detail in FTA Circular 4716.1A, "Disadvantaged Business Enterprise Requirements for Recipients and Transit Vehicle Manufacturers."

b. Section 5311/5311(f) recipients who reasonably anticipate awarding \$250,000 or less in prime contracts in a fiscal year are not required to submit a DBE plan. This affects new 5311/5311(f) funded systems who received funding on or after January 2000, and who do not already have a DBE program. This rule change would also reduce the burden on recipients who already have DBE programs. If such recipient anticipates awarding \$250,000 or less in prime contracts (excluding transit vehicles) would not have to submit a DBE overall goal for that year. However, the recipients existing program must remain in effect. Recipients not required to submit a DBE program must nonetheless take the "necessary and reasonable steps" to ensure the maximum utilization of DBE's pursuant to Section 23.43. (a)(2) of the U.S. D.O.T. regulation. Recipients also have the obligation to track and report DBE participation levels achieved, including sufficient documentation in the recipient's, subrecipient's or contractor's files to substantiate efforts undertaken to meet these obligations.

At a minimum, "the necessary and reasonable steps" include:

- (1) Identification of all contracting opportunities, if any, associated with Section 5311/5311(f) assistance. Use the overall project budget as the source document for this step.
- (2) Analysis of DBE availability (known and projected) to provide the products or services identified for contracting at either the prime or subcontract level. This step includes making contact with organizations that may be expected to have information regarding DBE contracting opportunities. Some organizations include: the Small Business Administration, the Minority Business Development Agency (U.S. Department of Commerce) and the Indiana Department of Transportation Civil Rights Division.
- (3) Establishment of contract goals for Section 5311/5311(f) contracts based upon the availability analysis.
- (4) Use of good faith efforts to achieve the contract goals established. A recipient demonstrates "good faith efforts" by communicating DBE goals and commitments to all applicable parties.

Recipients shall make it known that they will only award contracts to those contractors who strive to meet contact goals and demonstrate good faith efforts to do so. All prime contractors should be required to submit information on DBE participation along with bid/proposals for contracts, as a matter of "responsiveness".

Recipients may also employ other good faith efforts including; holding pre-bid meetings to inform DBEs of opportunities, advertising contract goals in minority media, general circulation and trade association media, providing written notice to DBEs who have skills in work area needed, effectively using the services of available minority/women or community organizations, where appropriate; breaking out contract work into economically feasible units to facilitate participation, and providing DBEs with adequate opportunities to review plans, specs and/or contracting opportunities.

- (5) Use of DBE firms certified under eligibility criteria of 49 CFR Part 23 & 26.
- (6) Record keeping, and reporting sufficient for verification of steps taken and participation achieved.

5. Title VI Information Requirements

Each applicant must file the following information with the Office of Transit on a <u>one-time</u> basis and update it as necessary when changes occur:

a. A concise description, if applicable, of any lawsuits or complaints alleging discrimination on the basis of race, color, or national origin with respect to service or transit benefits filed against the Applicant within the past year, together with a statement of status or outcome of each such lawsuit and/or complaint.

- b. A description of all pending applications for financial assistance and all financial assistance currently provided by other Federal agencies.
- c. A summary of all civil rights compliance review activities conducted in the last three years.
- d. For construction projects, a fixed-facility impact analysis to assess the effects on minority communities.

NOTE: If this information has been provided under a previous application, please indicate this and identify the grant number.

6. Labor Protection - Section 5333(b) Requirements - ATTACHMENT 7 & 8

Section 5333(b) of the Federal Transit Act, as amended specifies that as a condition of any financial assistance, fair and equitable arrangements be made, as determined by the Secretary of Labor, to protect the interest of employees affected by such assistance. The protective arrangements shall include the provisions as set forth in the Special Section 5333(b) Warranty for application to the Rural and Small Urban Transit Assistance Program.

In order to receive U.S. Department of Labor concurrence on the Special Section 5333(b) Warranty, the Applicant/Recipient must sign the Section 5333(b) Warranty, **ATTACHMENT 7** and submit a complete list of all eligible providers of public transportation services and unions representing their employees within the grant project's service area. A copy of the provider information form is included as **ATTACHMENT 8**.

Eligible public transportation service is any transportation provided by bus, rail, shared-ride taxi, or other conveyance, either publicly or privately owned, which provides to the public general or special service, primarily in non-urban areas, on a regular and continuing basis. The service may constitute an entire public transit system or may be an individual route or a segment of a route provided by a common carrier of passengers.

Public transportation <u>does not</u> include: 1) school bus, charter or sight-seeing service; 2) exclusive ride taxi service; or 3) services to individuals or groups which excludes use by the <u>general public</u>. It is the Applicant's responsibility to properly ascertain eligible public transportation providers in their service area.

7. Capital Grant Only Requirements

a. Protection of the Environment

The FTA Environmental Impact and Related regulation (23 CFR Part 771) categorizes projects according to three degrees of environmental impact.

Class 1 projects will have a significant effect on the environment and require the preparation of an Environmental Impact Statement (EIS).

Class 2 (Categorical Exclusion) projects are small projects that will not have a significant impact; therefore they are excluded from the preparation of any environmental document.

Class 3 projects are those in which the significance cannot be clearly or readily determined. These projects require the preparation of a brief Environmental Assessment (EA) to establish the need for an EIS or a Finding of No Significant Impact by FTA.

Most transit projects will fall into Class 2 projects and be classified as Categorical Exclusions (CEs) by the Office of Transit and FTA. The categories for CEs are listed below in a checklist and generally include such projects as operating assistance.

The checklist, **ATTACHMENT 9** should be used to justify your project as a CE. Applicants should recommend proposed projects as CEs that are not listed. However, the decision to exclude a project from the requirements of an environmental document rests with the FTA Region V Office in Chicago, Illinois. To assist in this decision, the Applicant should supply a detailed project description along with a description and map of the land use in the area immediately surrounding the proposed project site. For certain categorical exclusions involving construction (see 23 CFR 771.113(b)(2)), FTA may require additional information to help determine if the criteria for a categorical exclusion have been met.

Larger construction projects or projects proposed in sensitive areas may require the preparation of an Environmental Assessment (EA). Examples of projects which have required EAs are transportation terminals, transit malls, certain bus garages and ancillary facilities. The EA is used to help determine the significance of environmental impacts. If warranted, the FTA Regional Office will complete the environmental process by approving a Finding of No Significant Impact based on the information contained in the Applicant's EA. FTA Circular 5620.1 provides guidelines for preparing environmental assessments.

- b. Evaluation of Flood Plain Transit Facilities
 - Where transit facilities are to be constructed or purchased as part of the project, the Applicant must indicate whether or not the proposed facilities will be located in a flood plain. In those instances, the Applicant will be required to furnish an engineering report continuing an analysis of the flood hazards involved in the proposed construction, the methods proposed to protect against them, and the basis on which it is concluded that it will not be hazardous to construct the facility as designed. In determining the eligibility of such facilities for assistance, a review will be made of the engineering aspects referring to the provisions of Executive Order 11296. The review will include thorough consideration of drainage conditions on all sites including storm water entering and leaving the site and possible ground water problems.
- c. Real Estate Acquisition and Relocation Applicants requesting a capital project which will require the acquisition or real property and/or the relocation of people and/or businesses must address the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646). These requirements are outlined in FTA Circular 9040.1F – Section 5311 Guidance and Circular 4530.1 – Land Acquisition and Relocation.

Applicants are responsible for requesting these circulars from the OT early in their grant application process and addressing the necessary requirements. Assistance in addressing these requirements may be requested from the Office of Transit.

- 8. Use of Equipment, Facilities & Property Certification ATTACHMENT 10

 Certification that Project equipment, facilities and property continue to be used in accordance with the terms and conditions of all applicable capital agreements.
- 9. Pass-Through Agreement ATTACHMENT 11
 Eligible recipients of Section 5311 funds from INDOT are limited to units of government authorized under state law to provide and carry out a local public transportation project. Eligible applicants include the State of Indiana, counties, cities or towns, Public Transportation Corporations (PTC) or Regional Transportation Authorities (RTA). The Federal Transit Administration (FTA) permits the states to use an eligible recipient as a "pass-through" in order to provide project funds to another eligible recipient when the lower tier recipient would also be an eligible recipient. Thus, FTA allows the state to pass-through funds to private non-profit agencies as long as those agencies are considered eligible recipients.

If you are not the direct recipient of Section 5311 funds, but you are the pass-through recipient, you need to complete the Pass-Through Agreement between the eligible recipient and the pass-through recipient.

ATTACHMENT 1

OPERATING BUDGET 5311/5311(f) SYSTEM NAME: INSERT SYSTEM NAME

PROJECT TIME PERIOD: January 1, 2011 to December 31, 2011

OPERATING PROJECT BUDGET

OPERATING EXPENSES 501.01 Operator's Salaries & Wages 501.02 Other Salaries & Wages 502 Fringe Benefits 503 Services 504.01 Fuel & Lubricants 504.02 Tires & Tubes 504.09 Other Materials & Supplies 505 Utilities 506 Casualty & Liability Costs 507 Taxes 508 Purchased Transportation** brief explanation 509 Miscellaneous Expense 512 Leases & Rentals** brief explanation 517 Equipment** brief explanation 518 Indirect Cost Expenses TOTAL EXPENSES OPERATING REVENUES 401 Passenger Fares 402 Special Transit Fares 405 Auxiliary Transportation Revenue 407 Non-Transportation Revenue 407 Non-Transportation Revenue 450 Other Contra-Expenses TOTAL FAREBOX/OTHER REVENUE NET OPERATING EXPENSES LOCAL MATCH General Fund Other, including Unrestricted Federal/State Funds (please specify) SUBTOTAL STATE MATCH STATE MATCH State PMTF Allocation SUBTOTAL FAREB SHARE Federal FTA 5311 SUBTOTAL FEDERAL 5311 GRAND TOTAL REVENUES		INO I NOSECI DODOLI		,					
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Prepared by:	Date):

ATTACHMENT 1 (continued) - Explanation of Terms

Item 1 - Eligible Expenses

Eligible Expenses are those costs incurred in the operation and administration of the transit service during the project period, and which are eligible for reimbursement under state and federal assistance programs. OMB Circular No. A-87, Attachment B outlines costs that are eligible for reimbursement under all federal grant programs.

Some of the more common <u>ineligible items</u> include: entertainment; fines and penalties; charitable donations, and interest expense on long-term borrowing and debt retirement. In addition, the following five items are, in general, <u>ineligible</u> for assistance:

- Costs of advisory councils are ineligible unless the Office of Transit grants prior approval.
- For private mass transportation operators, provisions for federal, state, or local income taxes.
- Indirect transit-related functions or activities of regional or local entities performed as a normal or direct aspect of general public administration (e.g. expenses of a city council in considering transit matters).
- Depreciation accrued by public operators, depreciation on facilities or equipment purchased with public (i.e., federal, state or local) capital assistance, depreciation of an intangible asset, and/or depreciation in excess of the rate otherwise used for income tax purposes are ineligible.
- Expenses for contingencies.

Item 3 - Farebox and Other Revenues

All revenue sources used to cover eligible operating expenses must be represented in the project budget. Item 3 represents those revenues used to cover eligible expenses. These revenues *cannot* be included in Item 6(a) "local match". At a minimum, this category includes revenues from fares, discount fares and contra-expenses. Brokerage user fees should be identified under Revenue Category 406 - Auxiliary Transportation, if applicable.

Contra-expenses are revenue sources which directly offset transit expenses and which are therefore eliminated from the "net operating expense" (i.e., deficit) eligible for Section 5311 assistance. See **Appendix A** for common types of contra-expenses.

<u>Item 6 - Eligible Local Share for Operating and Capital Grants</u>

The eligible local share for a Section 5311/5311(f) grant must be from non-FTA sources of funding, and can include local and/or state sources, and/or unrestricted federal/state funds. At least 50% of the local share must be provided in cash or cash equivalent from sources other than unrestricted federal/state funds.

Examples of local share funds are local appropriations, dedicated tax revenues and net income generated from advertising and concessions. Funds derived from purchase of service contracts may be treated either as local cash share or as operating revenue. The other half of the local share may be made up of unrestricted funds from other federal/state programs if so authorized by that program's Grantor Agency.

Unrestricted Federal/State Funds – Federal/State Funds are unrestricted when a Federal/State agency permits its funds to match Section 5311 funds. A current list of funds that can be used to match Section 5311 funds is available from Office of Transit. The Applicants are responsible for identifying unrestricted funds because they are held accountable by the other Federal or State Grantor agencies involved. Local funds used to match unrestricted Federal/State funds must be treated as unrestricted Federal/State funds. These sources of funds <u>may not</u> exceed 50% of the total local share.

ATTACHMENT 1 (continued) - Explanation of Terms

In-kind, Donations, Volunteers - In-kind contributions, volunteer services, and donations are eligible as part of the "cash" share of the local match. Such non-cash sources of local match are eligible only if the value of each is formally documented and supported. Guidance on this subject is provided in the Common Rule 49 CFR Part 18. All in-kind sources <u>must</u> have <u>prior</u> INDOT approval to be eligible as local match.

<u>Item 6(b) - State Match, Public Mass Transportation Fund (PMTF)</u>

Existing grantees of state funds are eligible for continued funding from this state assistance program. If they have not received State PMTF funding information by the time they have completed their project budget, then contact the Office of Transit for this information. *Please note that in-kind labor services and contra-expenses are not allowed as local match to PMTF funds.*

Cost /	<u> Allocation P</u>	<u>lan</u>											
Does	the Applican	t prop	ose t	o cla	im re	eimbur	seme	ent for ir	ndired	t or s	hare	d cc	osts?
Yes	No												
							_						

If yes, INDOT requires the submission of a *Cost Allocation Plan* to their appropriate federal or state cognizant agency for review and approval. The *Cost Allocation Plan* must contain an indirect cost rate proposal, which consist of prepared documentation to substantiate its claim for reimbursement of indirect cost. This plan provides the basis for the review and negotiations leading to the establishment of an organization's indirect cost rate. The cognizant agency is generally the source of the Applicant's largest funding base. A copy of the <u>approved</u> plan or agreement must be submitted with this application if costs are to be reimbursed.

For guidance in developing the Cost Allocation Plan, the Applicant should contact their cognizant agency.

ATTACHMENT 2

OPERATING PROJECT BUDGET WORKSHEET AND ANALYSIS

Eligible Expenses:		2009 Actual Spent	2010 Approved Budget	Est. 2011 Project Year Budget	* % <u>Difference</u>
501 LABOR .01 Operator's S .02 Other Salari	Salaries & Wages es & Wages				
502 FRINGE BENEFIT	rs				
	l/Technical Ser. intenance Ser. ervices				
.01 Fuel & Lubri .02 Tires & Tube .99 Other Mater	cants		<u></u>		
505 UTILITIES					
506 CASUALTY & LIA	BILITY				
507 TAXES .04 Vehicle Lice Registration .05 Fuel & Lubri .99 Other Taxes	Fees cant Taxes				
508 PURCHASED TR	ANSPORTN SERVS.				
.01 Dues & Sub .02 Travel & Me .08 Advertising/ .99 Other Misc.	scriptions etings Promotion Media				
512 LEASES AND RE	NTALS				
517 EQUIPMENT (NO	TE 1)				
518 INDIRECT EXPEN	NSES				
TOTAL EXPENSES					

ATTACHMENT 2 (continued)

OPERATING PROJECT BUDGET WORKSHEET AND ANALYSIS

	2009 Actual	2010	Est. 2011 Project	* %			
Farebox and other Revenues	Spent _	Approved <u>Budget</u>	Year Budget	Difference			
401 PASSENGER FARES .01 Full Adult .02 Senior Citizen .03 Student .04 Child .05 Disabled .99 Other Fares							
402 SPECIAL TRANSIT FARES (NOTE 2) .03 Special Route Guarantees .04 State/Local Gov't Contracts .05 Other Contract							
403 SCHOOL BUS SERVICE (Note 2)							
405 CHARTER SERVICE (Contra-Expense)							
406 AUXILIARY TRANSPORTATION .01 Station Concessions .02 Vehicle Concessions .03 Advertising Services .04 Other Auxiliary							
 407 NONTRANSPORTATION REVENUES .01 Sale of Maintenance Servs. .02 Rental of Revenue Vehicles .03 Rental of Buildings & Other Property .99 Other Non-Transportation 							
450 OTHER CONTRA-EXPENSES							
TOTAL FAREBOX/OTHER REVENUES							

- NOTE 1: The Equipment line item may not exceed \$5,000 and may not include any type of vehicle.
- NOTE 2: Revenue categories 402, 403 and 406 may be used to cover total operating expenses or as local match. If the applicant intends on using these categories as local match, they should not be identified as revenue on this worksheet. However, they should be identified as Local Match (Item 6a) on **ATTACHMENT 1** Operating Project Budget.
 - * Please calculate percentage changes between "2010 Approved" and "Est. 2011 Budget". If the percentage change exceeds a 10% increase or decrease, provide a brief explanation.

ATTACHMENT 3

L PROJECT BUDGET (double-click spreadsheet to enter figures)	
// NAME:	
CT TIME PERIOD:	
PROJECT DESCRIPTION	cos
Please Identify SCOPE & ACTIVITY of each item.	
SCOPE:	
ACTIVITY:	
SCOPE:	
ACTIVITY:	
AOTIVITI.	
SCOPE:	
ACTIVITY:	
TOTAL EXPENSES	
PROJECT FINANCING	
Local (specify source)	+
State Match (PMTF)	
Federal (FTA)	
Other (specify source)	
TOTAL DDO JECT FINANCING	
TOTAL PROJECT FINANCING	

Date:

Prepared by:

EXHIBIT 4 - VEHICLE INVENTORY

Mark vehicle(s) this request would replace with an asterisk (*)

Vehicle Type	Vehicle Serial Number	Lift/ Ramp Equipped	Seating Capacity	Capital Funding Sources Federal, state & local	Odometer Mileage as of 04/01/10	Condition of Vehicle (see below)
С	2B7KB31Z8NK144936	YES	10	Section 5311/United Way	149,799	Fair
	Туре	Vehicle Serial Type Number	VehicleSerialRampTypeNumberEquipped	VehicleSerialRampCapacityTypeNumberEquipped	Vehicle Serial Ramp Capacity Funding Sources Type Number Equipped Federal, state & local C 2B7KB3178NK144936 YES 10 Section 5311/United	Vehicle Serial Ramp Capacity Funding Sources Mileage as Type Number Equipped Federal, state & local of 04/01/10 C 2B7KB3178NK144936 VES 10 Section 5311/United

TOTAL SEATING CAPACITY

(For vehicle fleets larger than 10 vehicles, copy form and continue)

Vehicle Type Abbreviations						
S	Sedan					
MV	Mini-van					
LFMV	Low Floor Mini-van					
В	High Top van, no lift					
С	High Top van <u>with</u> lift					
LTV	Body on Chassis vehicle					

Please use the following scale to indicate vehicle condition:

GOOD – Vehicle has standard maintenance

FAIR – Vehicle has frequent minor problems

POOR – Vehicle has frequent major problems

BAD – Vehicle has major mechanical problems

BACK-UP - Vehicle only used occasionally as backup

NIS – Vehicle not in service

OTHER – Vehicle not used for passenger service

ATTACHMENT 5

01. CERTIFICATIONS AND ASSURANCES REQUIRED OF EACH APPLICANT

Each Applicant for Federal Section 5311 funds awarded through the Indiana Department of Transportation must make all applicable certifications and assurances in this section. Accordingly the Federal Transit Administration may not award any Federal assistance until the Applicant provides assurances of compliance by selecting the applicable Categories on the signature page at the end of this section. Category 01 applies to all Applicants. Category 02 applies to all applications for Federal assistance in excess of \$100,000. Categories 03 through 24 will apply to and be required for some, but not all, Applicants and projects. Please be aware, this process ONLY excludes you from submitting documents with your application, NOT from collecting documents and having them on file.

The Applicant also understands and agrees that these certifications and assurances are special pre-award requirements specifically prescribed by Federal law or regulation and do not encompass all Federal laws, regulations, and directives that may apply to the Applicant or its project. A comprehensive list of those Federal laws, regulations, and directives is contained in the current FTA Master Agreement for Federal Fiscal Year 2010 at the FTA website http://www.fta.dot.gov/documents/16-Master.pdf.

Assurance of Authority of the Applicant and Its Representative

The authorized representative of the Applicant and the attorney who sign these certifications, assurances, and agreements affirm that the Applicant and its authorized representative have adequate authority under applicable state and local law and the Applicant's by-laws or internal rules to:

- (1) Execute and file the application for Federal assistance on behalf of the Applicant;
- (2) Execute and file the required certifications, assurances, and agreements on behalf of the Applicant binding the Applicant; and
- (3) Execute grant agreements and cooperative agreements with FTA on behalf of the Applicant.

Standard Assurances

The Applicant assures that it will comply with all applicable Federal statutes, regulations, executive orders, FTA circulars, and other Federal requirements in carrying out any project supported by an FTA grant or cooperative agreement. The Applicant agrees that it is under a continuing obligation to comply with the terms and conditions of the grant agreement or cooperative agreement issued for its project with FTA. The Applicant recognizes that Federal laws, regulations, policies, and administrative practices may be modified from time to time and those modifications may affect project implementation. The Applicant understands that Presidential executive orders and Federal directives, including Federal policies and program guidance may be issued concerning matters affecting the Applicant or its project. The Applicant agrees that the most recent Federal requirements will apply to the project, unless FTA issues a written determination otherwise.

Intergovernmental Review Assurance

The Applicant assures that each application for Federal assistance submitted to FTA has been or will be submitted, as required by each state, for intergovernmental review to the appropriate state and local agencies. Specifically, the Applicant assures that it has fulfilled or will fulfill the obligations imposed on FTA by U.S. DOT regulations, "Intergovernmental Review or Department of Transportation Programs and Activities," 49 CFR part 17. This assurance does not apply to Applicants for Federal assistance derived from FTA's Tribal Transit Program, 49 U.S.C. 5311(c)(1).

Nondiscrimination Assurance

As required by 49 U.S.C. 5332, Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C 2000d, and U.S. D.O.T. regulations, "Nondiscrimination in Federally assisted Programs of the Department of Transportation--Effectuation of Title VI of the Civil Rights Act, "49 CFR Part 21.7. the Applicant assures that it will comply with all requirements of 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR Part 21, so that no person in the United States, on the basis of race, color national origin, creed, sex, or age will be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in any program or activity (particularly in the level and quality of transportation services and transportation related benefits) for which the Applicant receives Federal assistance awarded by the U.S. DOT or FTA as follows:

- (1) The Applicant assures that each project will be conducted, property acquisitions will be undertaken, and projects facilities will be operated in accordance with all applicable requirements of 49 U.S.C. 5332, 42 U.S.C. 2000d and 49 CFR Part 21, and understands that this assurance extends to its entire facility and to facilities operated in connection with the project.
- (2) The Applicant assures that it will take appropriate action that any transfer of real property, structures, or improvements financed with Federal assistance provided by FTA to another party, any deeds and instruments recording the transfer of that property shall contain a covenant running with the land assuring nondiscrimination for the period during which the property is used for a purpose for which the Federal assistance is extended or for another purpose involving the provision of similar services or benefits.
- (3) The Applicant assures that it will promptly take the necessary actions to effectuate this assurance, including notifying the public that complaints of discrimination in the provision of transportation-related services or benefits may be filed with the U.S. D.O.T. or FTA. Upon request by U.S. D.O.T or FTA, the Applicant assures that it will submit the required information pertaining to its compliance with these requirements.
- (4) The Applicant assures that it will make any changes in its Title VI implementing procedures as U.S. D.O.T. or FTA may request to achieve compliance with the requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR Part 21.
- (5) The Applicant will include appropriate clauses in each third party contract, third party subcontract, or participation agreement adequate provisions to extend the requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR Part 21 to other parties involved therein including any subrecipient, transferee, third party contractor, third party subcontractor at any level, successor in interest, or any other participant in the project.
- (6) The United States has a right to seek judicial enforcement with regard to any matter arising under the Title VI of the Civil Rights Act, regulations, and this assurance.

Assurance of Nondiscrimination on the Basis of Disability

As required by U.S. D.O.T. regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance" at 49 CFR 27.9, the Applicant assures that, as a condition to the approval or extension of any Federal assistance awarded by the FTA, to construct any facility, obtain any rolling stock or other equipment, undertake studies, conduct research, or to participate in or obtain any benefit from any program administered by FTA, no otherwise qualified person with a disability shall be, solely by reason of that disability, excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in any program or activity receiving or benefiting from Federal assistance administered by the FTA or any entity within the U.S. D.O.T. The Applicant assures that the project implementation and operations so assisted will comply with all applicable requirements of U.S. DOT regulations implementing the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, et seq., and the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12101 et seq., and implementing U.S. DOT regulations at 49 CFR Parts 27, 37, and 38, and any applicable Federal laws that my be enacted or Federal regulations that may be promulgated.

<u>Certifications and Assurances Required by the U.S. Office of Management and Budget (OMB) (SF-424B and SF-424D)</u>

As required by OMB, the Applicant certifies that it:

- (1) Has the legal authority to apply for Federal assistance and the institutional, managerial, and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management, and completion of the project described in its application;
- (2) Will give FTA, the Comptroller General of the United States, and, if appropriate, the state, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives;
- (3) Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain;
- (4) Will initiate and complete the work within the applicable project time periods following receipt of FTA approval:
- (5) Will comply with all applicable Federal statutes relating to nondiscrimination including, but not limited to:
 - (a) Title VI of the Civil Rights Act, 42 U.S.C. 2000d, which prohibits discrimination on the basis of race, color, or national origin:
 - (b) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 through 1683, and 1685 through 1687, and U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 CFR part 25, which prohibit discrimination on the basis of sex;
 - (c) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, which prohibits discrimination on the basis of disability;
 - (d) The Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 through 6107, which prohibits discrimination on the basis of age;
 - (e) The Drug Abuse Office and Treatment Act of 1972, as amended 21 U.S.C. 1101 *et seq.*, relating to nondiscrimination on the basis of drug abuse;
 - (f) The Comprehensive Alcohol Abuse and Alcoholism Prevention Act of 1970, as amended, 42 U.S.C. 4541 *et seq.*, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
 - (g) The Public Health Service Act of 1912, as amended, 42 U.S.C. 201 et seq., relating to confidentiality of alcohol and drug abuse patient records;
 - (h) Title VIII of the Civil Rights Act, 42 U.S.C. 3601 *et seq.*, relating to nondiscrimination in the sale, rental, or financing of housing and;
 - (i) Any other nondiscrimination statute(s) that may apply to the project;
- (6) Will comply with, or has complied with, the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (Uniform Relocation Act) 42 U.S.C. 4601 *et seq.*, which, among other things, provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in any purchase. As required by sections 210 and 305 of the Uniform Relocation Act, 42 U.S.C. 4630 and 4655, and U.S. DOT regulations, "Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs," 49 CFR 24.4, the Applicant assures that it has the requisite authority under applicable state and local law to comply with the requirements of the Uniform Relocation Act, 42 U.S.C. 4601 *et seq.*, and U.S. DOT regulations, "Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs," 49 CFR part 24, and will comply with or has complied with the Act and those U.S. DOT implementing regulations, including but not limited to the following:
 - (a) The Applicant will adequately inform each affected person of the benefits, policies, and procedures provided for in 49 CFR part 24;
 - (b) The Applicant will provide fair and reasonable relocation payments and assistance as required by 42 U.S.C. 4622, 4623, and 4624; 49 CFR part 24; and any applicable FTA procedures, to or for families, individuals, partnerships, corporations, or associations displaced as a result of any project financed with FTA assistance;
 - (c) The Applicant will provide relocation assistance programs offering the services described in 42 U.S.C. 4625 to such displaced families, individuals, partnerships, corporations, or associations in the manner provided in 49 CFR part;
 - (d) Within a reasonable time before displacement, the Applicant will make available comparable replacement dwellings to displaced families and individuals as required by 42 U.S.C. 4625(c)(3):
 - (e) The Applicant will carry out the relocation process in such manner as to provide displaced persons with uniform and consistent services, and will make available replacement housing in

- the same range of choices with respect to such housing to all displaced persons regardless of race, color, religion, or national origin:
- (f) In acquiring real property, the Applicant will be guided to the greatest extent practicable under state law, by the real property acquisition policies of 42 U.S.C. 4651 and 4652;
- (g) The Applicant will pay or reimburse property owners for necessary expenses as specified in 42 U.S.C. 4653 and 4654, with the understanding that FTA will provide Federal financial assistance for the Applicant's eligible costs of providing payments for those expenses, as required by 42 U.S.C. 4631;
- (h) The Applicant will execute such amendments to third party contracts and subagreements financed with FTA assistance and execute, furnish, and be bound by such additional documents as FTA may determine necessary to effectuate or implement the assurances provided herein; and
- (i) The Applicant agrees to make these assurances part of or incorporate them by reference into any third party contract or subagreement, or any amendments thereto, relating to any project financed by FTA involving relocation or land acquisition and provide in any affected document that these relocation and land acquisition provisions shall supersede any conflicting provisions;
- (7) To the extent applicable, will comply with the Davis-Bacon Act, as amended, 40 U.S.C. 3141 *et seq.*, the Copeland "Anti-Kickback" Act, as amended, 18 U.S.C. 874, and the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. 3701 *et seq.*, regarding labor standards for federally assisted projects;
- (8) To the extend applicable, will comply with flood insurance purchase requirements of section 102(a) of the Flood Disaster Protection Act 0f 1973, as amended, 42 U.S.C. 4012a(a), requiring recipients in a special flood hazard area to participate in the program and purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more;
- (9) Will comply with the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4831(b), which prohibits the use of lead-based paint in the construction or rehabilitation of residence structures;
- (10) Will not dispose of, modify the use of, or change the terms of the real property title or other interest in the site and facilities on which a construction project supported with FTA assistance takes place without permission and instructions from the awarding agency;
- (11) Will record the Federal interest in the title of real property in accordance with FTA directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure nondiscrimination during the useful life of the project;
- (12) Will comply with FTA requirements concerning the drafting, review, and approval of construction plans and specifications of any construction project supported with FTA assistance. As required by U.S. DOT regulations, "Seismic Safety," 49 CFR 41.117(d), before accepting delivery of any building financed with FTA assistance, it will obtain a certificate of compliance with the seismic design and construction requirements of 49 CFR part 41;
- (13) Will provide and maintain competent and adequate engineering supervision at the construction site of any project supported with FTA assistance to ensure that the complete work conforms with the approved plans and specifications, and will furnish progress reports and such other information as may be required by FTA or the state;
- (14) Will comply with any applicable environmental standards that may be prescribed to implement the following Federal laws and executive orders;
 - (a) Institution of environmental quality control measures under the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 through 4335 and Executive Order 11514, 42 U.S.C. 4321 note:
 - (b) Notification of violating facilities pursuant to Executive Order No. 11738, 42 U.S.C. 7606 note;
 - (c) Protection of wetlands pursuant to Executive Order No. 11990, 42 U.S.C. 4321 note;
 - (d) Evaluation of flood hazards in floodplains in accordance with Executive Order 11988, 42 U.S.C. 4321 note;
 - (e) Assurance of project consistency with the approved state management program developed pursuant to the requirements of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 through 1465;
 - (f) Conformity of Federal actions to State (Clean Air) Implementation Plans under section 176(c) of the Clean Air Act of 1955, as amended, 42 U.S.C. 7401 through 7671q;
 - (g) Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. 300f through 300j-6;

- (h) Protection of endangered species under the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 through 1544; and
- (i) Environmental protections for Federal transportation programs, including, but not limited to, protections for parks, recreation areas, or wildlife or waterfowl refuges of national, state, or local significance or any land from a historic site of national, state, or local significance to be used in a transportation project as required by 49 U.S.C. 303(b) and 303(c);
- (j) Protection of the components of the national wild and scenic rivers systems, as required under the Wild and Scenic Rivers Act of 1968, as amended, 16 U.S.C. 1271 through 1287; and
- (k) Provision of assistance to FTA in complying with section 106 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470f; with the Archaeological and Historic Preservation Act of 1974, as amended, 16 U.S.C. 469 through 469c; and Executive Order No. 11593 (identification and protection of historic properties), 16 U.S.C. 470 note;
- (15) To the extent applicable, will comply with the requirements of the Hatch Act, 5 U.S.C. 1501 through 1508, and 7324 through 7326, which limit the political activities of state and local agencies and their officers and employees whose primary employment activities are financed in whole or part with Federal funds including a Federal loan, grant agreement, or cooperative agreement except, in accordance with 23 U.S.C. 5307(k)(2) and 23 U.S.C. 142(g), the Hatch Act does not apply to a nonsupervisory employee of a public transportation system (or of any other agency or entity performing related functions) receiving FTA assistance to whom that Act does not otherwise apply;
- (16) Will comply with the National Research Act, Pub. L. 93-348, July 12, 1974, as amended, 42 U.S.C. 289 et seq., and U.S. DOT regulations, "Protection of Human Subjects," 49 CFR part 11, regarding the protection of human subjects involved in research, development and related activities supported by Federal assistance:
- (17) Will comply with the Laboratory Animal Welfare Act of 1966, as amended, 7 U.S.C. 2131 et seq., and U.S. Department of Agriculture regulations, "Animal Welfare," 9 CFR subchapter A, parts 1,2,3, and 4, regarding the care, handling, and treatment of warm blooded animals held or used for research, teaching, or other activities supported by Federal assistance;
- (18) Will have performed the financial and compliance audits as required by the Single Audit Act Amendments of 1996, 31 U.S.C. 7501 et seq., OMB Circular No. A-133, "Audits of States, Local Governments and Non-Profit Organizations," Revised, and the most recent applicable OMB A-133 Compliance Supplement provisions for the Department of Transportation; and
- (19) Will comply with all applicable provisions of all other Federal laws, executive orders, regulations, and directives governing the project, except to the extent that FTA has expressly approved otherwise in writing.

02. LOBBYING

An Applicant that submits, or intends to submit this fiscal year, an application for Federal assistance exceeding \$100,000 must provide the following certification. FTA may not provide Federal assistance for an application exceeding \$100,000 until the Applicant provides this certification by selecting Category "02."

A. As required by 31 U.S. 1352 and U.S. D.O.T. regulations, "New Restrictions on Lobbying" at 49 CFR 20.110, the Applicant's authorized representative certifies to the best of his or her knowledge and belief that for each application for a Federal assistance exceeding \$100,000: (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Applicant, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress regarding the award of any Federal assistance, or the extension, continuation or renewal, amendment, or modification of any Federal assistance agreement; (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, in connection with any application to FTA for Federal assistance, the Applicant assures that it will complete and submit Standard Form -LLL, "Disclosure Form to Report Lobbying" including the information required by the instructions accompanying the form, which form may be amended to omit such information as authorized by 31 U.S.C. 1352; and (3) The language of this certification shall be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, subagreemetns, and

- contracts under grants, loans (including a line of credit), cooperative agreements, loan guarantees and loan insurance).
- B. The Applicant understands that this certification is a material representation of fact upon which reliance is placed by the Federal Government and that submission of this certification Is a prerequisite for providing Federal assistance for a transaction covered by 31 U.S. C 1352. The Applicant also understands that any person who fails to file a required certification shall be subject to a penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

03. PROCUREMENT COMPLIANCE

In accordance with 49 CFR 18.36(g)(3)(ii), each Applicant that is a state, local, or Indian tribal governments that is seeking Federal assistance to acquire property or services in support of its project is requested to provide the following certification by selecting Category "03." FTA also requests other Applicants to provide the following certification. An Applicant for FTA assistance to acquire property or services in support of its project that fails to provide this certification may be determined ineligible for award of Federal assistance for the project if FTA determines that its procurement practices and procurement system are incapable of compliance with Federal laws, regulations and directives governing procurements financed with FTA assistance.

The Applicant certifies that its procurements and procurement system will comply with all applicable third party procurement provisions of Federal laws, regulations, and directives, except to the extent FTA has expressly approved otherwise in writing.

04. PROTECTIONS FOR PRIVATE TRANSPORTATION PROVIDERS

An Applicant that is a state, local, or Indian tribal government seeking Federal assistance under 49 U.S.C. chapter 53 to acquire property or an interest in property of a private provider of public transportation or to operate public transportation equipment or facilities in competition with or in addition to transportation service provided by an existing private provider of public transportation is required to provide the following certification by selecting Category "04."

As required by 49 U.S.C. 5323(a)(1), the Applicant certifies that before it acquires property or an interest in property of a private provider of public transportation or operates public transportation equipment or facilities in competition with or in addition to transportation service provided by an existing public transportation company it has or will have:

- A. Determined that the assistance is essential to carrying out a program of projects as required by 49 U.S.C. 5303, 5304, and 5306:
- B. Provided for the participation of private companies engaged in public transportation to the maximum extent feasible; and
- C. Paid just compensation under state or local law to the company for any franchise or property acquired.

05. PUBLIC HEARING

An Applicant seeking Federal assistance authorized under 49 U.S.C. chapter 53 for a capital project that will substantially affect a community or a community's public transportation service is required to provide the following certification. FTA may not award Federal assistance for that type of project until the Applicant provides this certification by selecting Category "05."

As required by 49 U.S.C. 5323(b), the Applicant certifies that it has, or before submitting its application, will have:

- A. Provided an adequate opportunity for a public review and comment on the project preceded by adequate prior public notice of the proposed project, including a concise description of the proposed project, published in a newspaper of general circulation in the geographic area to be served;
- B. Held a public hearing on the project if the project affects significant economic, social, or environmental interest after providing adequate notice as described above;

- C. Considered the economic, social, and environmental effects of the proposed project; and
- D. Determined the proposed project is consistent with official plans for developing the community.

06. ACQUISITION OF ROLLING STOCK

An Applicant seeking Federal assistance authorized under 49 C.S.C. chapter 53 to acquire any rolling stock is required to provide the following certification. FTA may not award any Federal assistance to acquire such rolling stock until the Applicant provides this certification by selecting Category "06."

As required by 49 U.S.C. 5323(m) and implementing FTA regulations at 49 CFR 663.7, the Applicant certifies that it will comply with the requirements of 49 CFR part 663, when procuring revenue service rolling stock. Among other things, the Applicant will conduct or cause to be conducted the requisite preaward and post-delivery reviews, and maintain on file the certifications required by 49 CFR 663, subparts B, C and D.

07. ACQUISITION OF CAPITAL ASSETS BY LEASE

An applicant that intends to request the use of Federal assistance to acquire capital assets by lease is required to provide the following certifications. FTA my not provide assistance to support those costs until the Applicant provides this certification by selecting Category "07."

As required by FTA regulations, "Capital Leases," at 49 CFR 639.15(b)(1) and 639.21, if the Applicant acquires any capital asset by lease financed with Federal assistance authorized for 49 U.S.C. chapter 53, the Applicant certifies as follows: 1.) It will not use Federal assistance authorized to finance the cost of leasing any capital asset until it performs calculations demonstrating that leasing the capital asset would be more cost-effective than purchasing or constructing a similar asset; and it will complete these calculations before entering into the lease or before receiving a capital grant for the asset, whichever is later; and 2.) It will not enter into a capital lease for which FTA can provide only incremental Federal assistance unless it has adequate financial resources to meet its future obligations under the lease if Federal assistance is not available for capital projects in the subsequent years.

08. BUS TESTING

An Applicant for FTA assistance appropriated or made available for 49 U.S.C. chapter 53 to acquire any new bus model or any bus model with a new major change in configuration or components is required to provide the following certification. FTA may not provide assistance for the acquisition of any new bus model or bus model with a major change until the Applicant provides this certification by selecting Category "08."

As required by 49 U.S.C. 5318 and FTA regulations, "Bus Testing" at 49 CFR 665.7, the Applicant certifies that before expending any Federal assistance to acquire the first bus of any new bus model or any bus model with a new major change in configuration or components or authorizing final acceptance of that bus (as described in 49 CFR Part 665), the bus model:

- A. Will have been tested at FTA's bus testing facility; and
- B. Will have received a copy of the test report prepared on the bus model.

09. CHARTER SERVICE AGREEMENT

An Applicant seeking FTA assistance to acquire or operate any public transportation equipment or facilities is required to enter into the following Charter Service Agreement. FTA may not provide assistance for such projects until the Applicant enters into this agreement by selecting Category "09." (INDOT DOES NOT ALLOW CHARTER SERVICE)

A. As required by 49 U.S.C. 5323(d) and FTA regulations, at 49 CFR 604.4, the Applicant agrees that it and each subrecipient, third party contractor or any other participant in the project at any tier will: (1) provide charter service that uses equipment or facilities acquired with Federal assistance authorized

- under the Federal transit laws (except as permitted by 49 CRF 604.2), or under 23 U.S.C. 133 or 142, only in compliance with those laws and FTA regulations "Charter Service," 49 CFR part 604, the terms and conditions of which are incorporated herein by reference.
- B. The Applicant understands that (1) the requirements of 49 CFR Part 604 will apply to any charter service it or its subrecipients, lessees, third party contractors, or other participants in the project provide, (2) the definitions in 49 CFR Part 604 apply to this Charter Service Agreement, and (3) a pattern of violations of this Charter Service Agreement may require corrective measures and imposition of remedies, including barring the Applicant, subrecipient, lessee, third part contractor, or other participant in the project that has engaged in that pattern of violations from the receiving FTA financial assistance as set forth in FTA regulations, "Charter Service," 49 CFR part 604, Appendix D. (INDOT does not allow Charter Service)

10. SCHOOL TRANSPORTATION AGREEMENT

An Applicant seeking Federal assistance to acquire or operate transportation facilities and equipment is requested to enter into the following School Transportation Agreement. FTA may not provide assistance for such projects until the Applicant enters into this Agreement by selecting Category "10."

- A. As required by 49 U.S.C. 5323(f) and (g) and FTA regulations at 49 CFR 605.14, the Applicant agrees that it and all its subrecipients, third party contractor or any other participant in the project at any tier may: (1) engage in school transportation operations in competition with private schools transportation operators only to the extent permitted by 49 U.S.C. 5323(f) and (g), and Federal regulations; and (2) comply with the requirements of 49 CFR Part 605 before providing any school transportation using equipment or facilities acquired with Federal assistance authorized under 49 U.S.C. chapter 53 or under 23 U.S.C. 133 or 142 for transportation projects.
- B. The Applicant understands that the requirement of 49 CFR Part 605 will apply to any school transportation service it or its subrecipients, third party contractor or any other participant in the project provide. The definitions of 49 CFR Part 605 apply to this School Transportation Agreement, and if there is a violation of this Agreement, FTA will bar the Applicant, subrecipient, third party contractor or any other participant in the project from receiving Federal transit assistance in an amount FTA considers appropriate.

11. DEMAND RESPONSIVE SERVICE

An Applicant that operates demand responsive service and applies for direct Federal assistance to acquire non-rail public transportation vehicles is required to provide the following certification. FTA may not award Federal assistance directly to an Applicant to operate demand responsive service to non-rail public transportation vehicles until the Applicant provides this certification by selecting Category "11."

As required by U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," at CFR 37.77(d), the Applicant certifies that its demand responsive service offered to persons with disabilities, including persons who use wheelchairs, is equivalent to the level and quality of service offered to persons without disabilities. When viewed in its entirety, its service for persons with disabilities is provided in the most integrated setting feasible and its equivalent with respect to: (1) response time, (2) fares, (3) geographic service area, (4) hours and days of service, (5) restrictions on trip purpose, (6) availability of information and (7) constraints on capacity or service availability.

12. ALCOHOL MISUSE AND PROHIBITED DRUG USE

If the Applicant is required to provide the following certification concerning its activities to prevent alcohol misuse and prohibited drug use in its transit operations, FTA may not provide Federal assistance to that Applicant until it provides this certification by selecting Category "12."

As required by FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations" at 49 CFR 655, subpart I, the Applicant certifies that it has established and implemented

an alcohol misuse and anti-drug program, and has complied with or will comply with all applicable requirements of FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 CFR Part 655.

13. INTEREST AND OTHER FINANCING COSTS

An applicant that intends to request the use of Federal assistance for reimbursement of interest or other financing costs incurred for its capital projects must provide the following certification. FTA may not provide assistance to support those costs until the Applicant provides this certification by selecting Category "13."

As required by 49 U.S.C. 5307(g)(3), 5309(g)(2)(B)(iii), 5309(g)(3)(B)(iii), and 5309(i)(2)(C), and 5320(h)(2)(C), the Applicant certifies that it will not seek reimbursement for interest and other financing costs unless its records demonstrate that it has used reasonable diligence in seeking the most favorable financing terms underlying those costs, to the extent FTA may require.

14. INTELLIGENT TRANSPORTATION SYSTEMS

An Applicant that intends to administer on behalf of the state an Intelligent Transportation System (ITS) project must provide the following assurance. FTA may not award any Federal assistance for an ITS project until the Applicant provides this assurance by selecting Category "14."

As used in this assurance, the term Intelligent Transportation Systems (ITS) project is defined to include any project that in whole or in part finances the acquisition of technologies or systems of technologies that provide or significantly contribute to the provision of one or more ITS user services as defined in the "National ITS Architecture."

- A. As provided in 23 U.S.C. 5307(c), "the Secretary shall ensure that intelligent transportation system projects carried out using funds made available from the Highway Trust Fund, including funds made available under this subtitle to deploy intelligent transportation system technologies, conform to the national architecture, applicable standards or provisional standards, and protocols developed under subsection (a)." To facilitate compliance with 23 U.S.C. 5307(c), the Applicant assures it will comply with all applicable provisions of Section V (Regional ITS Architecture) and Section VI (Project Implementation) of FTA Notice, "FTA National ITS Architecture Policy on Transit Projects," at 66 Fed. Reg. 1455 et seq., January 8, 2001, and other FTA policies that may be issued in connection with any ITS project it undertakes financed with funds authorized under Title 49 or Title 23, U.S.C., except to the extent that FTA expressly determines otherwise in writing.
- B. With respect to any ITS project financed with Federal assistance derived from a source other than Title 49 or Title 23, U.S.C., the Applicant assures that it will use its best efforts to ensure that any ITS project it undertakes will not preclude interface with other intelligent transportation systems in the Region.

15. URBANIZED AREA FORMULA PROGRAM

An Applicant requesting Urbanized Area Formula Program assistance authorized by 49 U.S.C. 5307 must provide the following certifications and assurances. FTA may not award Federal assistance for those programs until the Applicant provides these certification and assurances by selecting Category "15."

Each Applicant required by 49 U.S.C. 5307(d)(l)(K) to expend at least one (1) percent of its Urbanized Area Formula Program assistance for eligible transit enhancements must list the projects carried out during that Federal fiscal year with those funds in its quarterly report for the fourth quarter of the preceding Federal fiscal year. That list constitutes the report of transit enhancement projects carried out during that fiscal year, which report is required to be submitted as part of the Applicant's annual certifications and assurances, in accordance with 49 U.S.C. 5307(d)(l)(K)(ii), and is therefore incorporated by reference and made part of the Applicant's annual certifications and assurances. FTA may not award Urbanized Area

Formula Program assistance to any Applicant that has received Transit Enhancement funds authorized by 49 U.S.C. 5307(d)(l)(K), unless that Applicant's quarterly report for the fourth quarter of the preceding Federal fiscal year has been submitted to FTA and includes the requisite list. As required by 49 U.S.C. 5307(d)(l), the Applicant certifies and assures as follows:

- A. In compliance with 49 U.S.C. 5307(d)(l)(A), the applicant has or will have the legal, financial, and technical capacity to carry out the proposed program of projects, including safety and security aspects of that program;
- B. In compliance with 49 U.S.C. 5307(d)(l)(B), the applicant has or will have satisfactory continuing control over the use of Project equipment and facilities;
- C. In compliance with 49 U.S.C. 5307(d)(l)(C), the applicant will adequately maintain the equipment and facilities;
- D. In compliance with 49 U.S.C. 5307(d)(l)(D), the applicant will ensure that elderly and handicapped persons, or any person presenting a Medicare card issued to himself or herself pursuant to title II or title XVIII of the Social Security Act (42 U.S.C. 401 et seq. or 42 U.S.C. 1395 et seq.), will be charged for transportation during non-peak hours using or involving a facility or equipment of a project financed with Federal assistance authorized for 49 U.S.C. 5307, not more than fifty (50) percent of the peak hour fare;
- E. In compliance with 49 U.S.C. 5307(d)(l)(E), the applicant in carrying out a procurement financed with Federal assistance authorized for the Urbanized Area Formula Program, 49 U.S.C. 5307: (1) will use competitive procurement (as defined or approved by the Secretary), (2) will not use exclusionary or discriminatory specifications, (3) will comply with applicable Buy America laws, and (4) will comply with the general provisions for FTA assistance of 49 U.S.C. 5323 and the third party procurement requirements of 49 U.S.C. 5325;
- F. In compliance with 49 U.S.C. 5307(d)(l)(F), the applicant has complied with or will comply with the requirements of 49 U.S.C. 5307(c). Specifically, the Applicant: (1) has made available, or will make available, to the public information on the amounts available for the Urbanized Area Formula program, 49 U.S.C. 5307 and if applicable, and the program of projects it proposes to undertake; (2) has developed or will develop, in consultation with interested parties including private transportation providers, a proposed program of projects for activities to be financed; (3) has published or will publish a proposed program of projects in a way that affected citizens, private transportation providers, and local elected officials have the opportunity to examine the proposed program and submit comments on the proposed program and the performance of the Applicant; (4) has provided or will provide an opportunity for a public hearing to obtain the views of citizens on the proposed program of projects; (5) has ensured or will ensure that the proposed program of projects provides for the coordination of transportation services assisted under 49 U.S.C. 5336 with transportation services assisted by another Federal Government source; (6) has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final program of projects; and (7) has made or will make the final program of projects available to the public;
- G. In compliance with 49 U.S.C. 5307(d)(1)(G), the applicant has or will have available and will provide the amount of funds required by 49 U.S.C. 5307(e) for the local share, and that those funds will be provided from approved non-Federal sources except as permitted by Federal law;
- H. In compliance with: 49 U.S.C. 5307(d)(1)(H), the Applicant will comply with: 49 U.S.C. 5301(a) (requirements for transportation systems that maximize safe, secure, and mobility of individuals, minimize environmental impacts, and minimize transportation-related fuel consumption and reliance on foreign oil); 49 U.S.C. 5301(d) (special efforts to design and provide public transportation for the elderly and persons with disabilities); and 49 U.S.C. 5303 through 5306 (planning and private enterprise requirements);
- In compliance with 49 U.S.C. 5307(d)(1)(I), the Applicant has a locally developed process to solicit
 and consider public comment before raising fares or implementing a major reduction of transportation;
 and
- J. In compliance with 49 U.S.C. 5307 (d)(1)(J), each fiscal year, the Applicant will spend at least one (1) percent its funds for public transportation security projects, including increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages), increased camera surveillance of an area in or adjacent to that system, emergency telephone line or lines to contact law enforcement or security personnel in an area in or adjacent to that system, and any other project intended to increase the security and safety of an existing or planned public transportation system, unless the Applicant has certified that such expenditures are not necessary.

K. In compliance with 49 U.S.C. 5307(d)(1)(K), if the Applicant is a Designated Recipient serving an urbanized area with a population of at least 200,000, (1) the Applicant certifies either that it has expended or will expend not less than (1) percent of the Urbanized Area Formula Assistance it receives each fiscal year for transit enhancements as defined at 49 U.S.C.5302(a)(15), or that at least one Designated Recipient in its urbanized area has certified or will certify that the Designated Recipients within that urbanized area together have expended or will expend for transit enhancements as defined at 49 U.S.C. 5302(a)(15) not less than one (1) percent of the amount of the total amounts the Designated Recipients receive each fiscal year under 49 U.S.C. 5307, and (2) either the Applicant has listed or will list the transit enhancement projects it has carried out with those funds, or at least one Designated Recipient in the Applicant's urbanized area has listed or will list the transit enhancement projects carried out with funds authorized under 49 U.S.C. 5307. If the Designated Recipient's quarterly report for the fourth quarter of the preceding Federal fiscal year includes a list of transit enhancement projects the Designated Recipients in its urbanized area have implemented during that preceding fiscal year using those funds, the information in that quarterly report will fulfill the requirements of 49 U.S.C. 5307(d)(I)(K)(ii), and thus that quarterly report will be incorporated by reference and made part of the Designated Recipient's and Applicant's certifications and assurances.

16. CLEAN FUELS GRANT PROGRAM

An applicant that intends to request Clean Fuels Grant Program assistance authorized under 49 U.S.C. 5308 is required to provide the following certifications and assurances on behalf of itself and its subrecipients FTA may not award Federal assistance for the Clean Fuels Grant Program until the Applicant provides these certifications by selecting Category "16."

As required by 49 U.S.C. 5308(d)(1), which makes the requirements of 49 U.S.C. 5307 applicable to Clean Fuels Grant Program assistance, and 49 U.S.C. 5307(d)(1), the designated recipient or the recipient serving as the Applicant on behalf of the designated recipient, or the state or state organization serving as the Applicant on behalf of the state, certifies as follows:

- A. In compliance with 49 U.S.C. 5307(d)(1)(A), the Applicant has or will have the legal, financial, and technical capacity to carry out its proposed program of projects, including safety and security aspects of that program;
- B. In compliance with 49 U.S.C. 5307(d)(1)(B), the Applicant has or will have satisfactory continuing control over the use of project equipment and facilities;
- C. In compliance with 49 U.S.C. 5307(d)(1)(C), the Applicant will adequately maintain the project equipment and facilities:
- D. In compliance with 49 U.S.C. 5307(d)(1)(D), the Applicant will ensure that elderly individuals, individuals with disabilities, or any person presenting a Medicare card issued to himself or herself pursuant to title II or title XVIII of the Social Security Act (42 U.S.C. 401 et seq. or 42 U.S.C. 1395 et seq.), will be charged for transportation during non-peak hours using or involving a facility or equipment of a project financed with Federal assistance authorized under 49 U.S.C. 5308, not more than fifty (50) percent of the peak hour fare;
- E. In compliance with 49 U.S.C. 5307(d)(1)(E), the Applicant, in carrying out a procurement financed with Federal assistance authorized under 49 U.S.C. 5308: (1) will use competitive procurement (as defined or approved by the Secretary), (2) will not use exclusionary or discriminatory specifications in its procurements, (3) will comply with applicable Buy America laws, and (4) will comply with the general provisions for FTA assistance of 49 U.S.C. 5323 and the third party procurement requirements of 49 U.S.C. 5325;
- F. In compliance with 49 U.S.C. 5307(d)(1)(F), the Applicant has complied with or will comply with the requirements of 49 U.S.C. 5307(c). Specifically, the Applicant; (1) has made available, or will make available, to the public information on the amounts available for the Clean Fuels Grant Program, 49 U.S.C. 5308, and the projects it proposes to under; (2) has developed or will develop, in consultation with interested parties including private transportation providers, the proposed projects to be financed; (3) has published or will publish a list of the proposed projects in a way that affected citizens, private transportation providers, and local elected officials have the opportunity to examine the proposed projects nd submit comments on the proposed projects and the performance of the Applicant; (4) has provided or will provide an opportunity for a public

hearing to obtain the views of citizens on the proposed projects; (5) has ensured or will ensure that the proposed projects provide for the coordination of transportation services assisted under 49 U.S.C. 5336 with transportation services assisted by Federal Government source; (6) has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of projects; and (7) has made or will make the final list of projects available to the public;

- G. In compliance with 49 U.S.C. 5307(d)(1)(G), the Applicant has or will have available and will provide the amount of funds required by 49 U.S.C. 5308(d)(2) for the local share, and that those funds will be provided from approved non-Federal sources except as permitted by Federal law.
- H. In compliance with 49 U.S.C. 5307(d)(1)(H), the Applicant will comply with:49 U.S.C. 5301(a) (requirements for public transportation systems that maximize the safe, secure, and efficient mobility of individuals, minimize environmental impacts, and minimize transportation-related fuel consumption and reliance on foreign oil); 49 U.S.C. 5301(d) (special efforts to design and provide public transportation for elderly individuals and individuals with disabilities); and 49 U.S.C. 5303 through 5306 (planning and private enterprise requirements);
- In compliance with 49 U.S.C. 5307(d)(1)(l), the Applicant has a locally developed process to solicit
 and consider public comment before raising a far or implementing a major reduction of public
 transportation; and
- J. The Applicant certifies that it will use only clean fuels to operate any vehicles financed with Federal assistance provided for the Clean Fuels Grant Program, 49 U.S.C. 5308, and in particular that it will use only ultra-low sulfur diesel fuel to operate "clean diesel" buses financed with Federal assistance provided for the Clean Fuels Grant Program, 49 U.S.C. 5308.

17. ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES FORMULA PROGRAM AND PILOT PROGRAM

An Applicant that intends to administer the Elderly Individuals and Individuals with Disabilities Formula Program and, Pilot Program, must provide the following certifications and assurances on behalf of itself and its subrecipients. FTA may not award assistance for the Elderly Individuals and Individuals with Disabilities Formula Program and, Pilot Program until the Applicant provides these certifications and assurances by selecting Category "17".

- A. As required by 49 U.S.C. 5310(d), which makes the requirements of 49 U.S.C 5307 applicable to Elderly Individuals and Individuals with Disabilities Formula Program to the extent that the Federal Transit Administrator or his or her designee determines appropriate, and 49 U.S.c. 5307(d)(1), the State or State organization serving as the Applicant (State) and that administers, on behalf of the State, the Elderly Individuals and Individuals with Disabilities Program authorized by 49 U.S.C. 5310, and if applicable, the Elderly Individuals and Individuals with Disabilities Pilot Program authorized by subsection 3012(b) of SAFETEA –LU, 49 U.S.C. 5310 note, certifies and assures on behalf of itself and its subrecipients as follows:
 - (1) In compliance with 49 U.S.C. 5307(d)(1)(A), the Applicant has or will have the necessary legal, financial, and technical capability to carry out its proposed program of projects, including safety and security aspects of that program:
 - (2) In compliance with 49 U.S.C. 5307(d)(1)(B), the Applicant has or will have satisfactory continuing control over the use of project equipment and facilities;
 - (3) In compliance with 49 U.S.C. 5307(d)(1)(C), the Applicant will adequately maintain the project equipment and facilities;
 - (4) In compliance with 49 U.S.C. 5307(d)(1)(E), the Applicant, in carrying out a subsection 3012(b) of SAFETEA-LU; (1) will use competitive procurement (as defined or approved by the Secretary), (2) will not use exclusionary or discriminatory specifications in its procurements, (3) will comply with applicable Buy America laws, and (4) will comply with general provisions for FTA assistance of 49 U.S.C. 5323 and the third party procurement requirements of 49 U.S.C. 5325;
 - (5) In compliance with 49 U.S.C. 5307(d)(1)(G), the Applicant has or will have available and will provide the amount of funds required by 49 U.S.C. 5310©, and if applicable by section 3012b(s) and (4), for the local share, and that those funds will be provided from approved non-federal sources except as permitted by Federal law; and

- (6) In compliance with 49 U.S.C. 5307(d)(1)(H), the Applicant will comply with: 49 U.S.C. 5301(a) (requirements for public transportation systems that maximize the safe, secure, and efficient mobility of individuals, minimize environmental impacts, and minimize transportation related fuel consumption and reliance on foreign oil); 49 U.S.C. 5301(d) (special efforts to design and provide public transportation for elderly individuals and individuals with disabilities); and 49 U.S.C. 5303 through 5306 (planning and private enterprise requirements);
- B. The state assures that each subrecipient either is recognized under state law as a private nonprofit organization with the legal capability to contract with the state to carry out the proposed project, or is a public body that has met the statutory requirements to receive Federal assistance authorized for 49 U.S.C. 5310.
- C. The private nonprofit subrecipient's application for 49 U.S.C. 5310 assistance contains information from which the state concludes that the transit service provided or offered to be provided by existing public existing public or private transit operators is unavailable, insufficient, or inappropriate to meet the special needs of the elderly and persons with disabilities.
- D. In compliance with 49 U.S.C. 5310(d)(2)(A) and section 3012(b)(2), the state certifies that, before it transfers funds to a project funded under 49 U.S.C. 5336, that project has been or will have been coordinated with private nonprofit providers of services under 49 U.S.C. 5310;
- E. In compliance with 49 U.S.C. 5310(d)(2)(C), the state certifies that allocations to subrecipients of financial assistance authorized under 49 U.S.C. 5310 or subsection 3012b of SAFETEA-LU will be distributed on a fair and equitable basis;
- F. In compliance with 49 U.S.C. 5310(d)(2)(B) and Subsection 3012(b)(2) of SAFETEA-LU, the State certifies that: (1) projects it has selected or will select for assistance under that program were derived from a locally developed, coordinated public transit-human services transportation plan; and (2) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

18. NONURBANIZED AREA FORMULA PROGRAM FOR STATES

An Applicant that intends to administer, on behalf of the state, the Nonurbanized Area Formula Program must provide the following certifications and assurances. Separate certifications and assurances has been established for an Indian tribe that is an Applicant for Tribal Transit Program assistance authorized by 49 &.S.C. 5311(c)(1). FTA may not award Nonurbanized Area Formula Program assistance to the Applicant until the Applicant provides these certifications and assurances shown by selecting Category "18".

Based on its own knowledge and, as necessary, on information submitted by the subrecipient, the Applicant administering on behalf of the state the Nonurbanized Area Formula Program authorized by 49 U.S.C. 5311 certifies that the following requirements and conditions will be fulfilled:

- A. The state and each subrecipient has or will have the necessary legal, financial, and managerial capability to apply for, receive and disburse Federal assistance authorized for 49 U.S.C. 5311; and to carry out each project, including the safety and security aspects of that project;
- B. The state has or will have satisfactory continuing control over the use of project equipment and facilities;
- C. The state assures that the project equipment and facilities will be adequately maintained;
- D. In compliance with 49 U.S.C. 5311(b)(2)(C)(i), the state's program has provided for a fair distribution of Federal assistance authorized for 49 U.S.C. 5311 within the state, including Indian reservations within the state:
- E. In compliance with 49 U.S.C. 5311(b)(2)(ii), the state's program provides or will provide the maximum feasible coordination of public transportation service to receive assistance under 49 U.S.C. 5311 with transportation service assisted by other Federal sources;
- F. The projects in the state's Nonurbanized Area Formula Program are included in the Statewide Transportation Improvement Program and, to the extent applicable; the projects are included in a metropolitan Transportation Improvement Program:
- G. The Applicant has or will have available and will provide the amount of funds required by 49 U.S.C. 5311(g) for the local share, and that those funds will be provided from approved non-federal sources except as permitted by Federal law; and

H. In compliance with 49 CU.S.C. 5311(f), the state will expend not less than fifteen (15) percent of the amounts of Federal assistance authorized under 49 U.S.C. 5311 that have been provided to the state to develop and support intercity bus transportation within the state, unless the chief executive officer of the state, or his or her designee, after consultation with affected intercity bus service providers, certifies to the Federal Transit Administrator, apart from these certifications and assurances herein, that the intercity bus service needs of the state are being adequately met.

19. JOB ACCESS AND REVERSE COMMUTE FORMULA GRANT PROGRAM

Each Applicant for Job Access and Reverse Commute (JARC) Formula Grant Program assistance authorized under 49 U.S.C. 5316 is required to provide the following certifications on behalf of itself and any subrecipient that may be implementing its project. FTA may not award Federal assistance for the JARC Formula Grant Program until the Applicant provides these certifications by selecting Category "19".

- A. As required by 49 U.S.C. 5316(f)(1), which makes the requirements of 49 U.S.C. 5307 applicable to Job Access and Reverse Commute (JARC) formula grants, and 49 U.S.C. 5307(d)(1), the Applicant for JARC Formula Program assistance authorized under 49 U.S.C. 5316, certifies on behalf of itself and its subrecipients, if any, as follows:
 - (1) In compliance with 49 U.S.C. 5307(d)(1)(A), the Applicant, has or will have the legal, financial, and technical capacity to carry out its proposed program or projects, including safety and security aspects of that program:
 - (2) In compliance with 49 U.S.C. 5307(d)(1)(B), the Applicant, has or will have satisfactory continuing control over the use of project equipment and facilities;
 - (3) In compliance with 49 U.S.C. 5307(d)(1)(C), the Applicant, will adequately maintain the project equipment and facilities;
 - (4) In compliance with 49 U.S.C. 5307(d)(1)(D), the Applicant, will ensure that elderly individuals and individuals with disabilities, or any person presenting a Medicare card issued to himself or herself pursuant to title II or title XVIII of the Social Security Act (42 U.S.C. 401 et seq. or 42 U.S.C. 1395 et seq.), will be charged to transportation during non-peak hours using or involving a facility or equipment of a project finances with Federal assistance authorized under 49 U.S.C. 5316 not more than fifty (50) percent of the peak hour fare;
 - (5) In compliance with 49 U.S.C. 5307(d)(1)(E), the Applicant, in carrying out a procurement financed with Federal assistance authorized under 49 U.S.C. 5316; (1) will use competitive procurement (as defined or approved by the Secretary), (2) will not use exclusionary or discriminatory specifications in its procurements, (3) will comply with applicable Buy America laws, and (4) will comply with the general provisions for FTA assistance of 49 U.S.C. 5323 and the third party procurement requirements of 49 U.S.C. 5325;
 - (6) In compliance with 49 U.S.C. 5316(f)(1) and 49 U.S.C. 5307(d)(1)(F), the Applicant certifies that (1) with respect to financial assistance authorized under 49 U.S.C. 5316, it will conduct in cooperation with the appropriate MPO an areawide solicitation for applications, and make awards on a competitive basis (2) with respect to financial assistance authorized under 49 U.S.C. 5316, it will conduct a statewide solicitation for applications, and make awards on a competitive basis; and that these activities will be carried out in a manner that complies with or will comply with 49 U.S.C. 5307(c):
 - (7) In compliance with 49 U.S.C. 5307(d)(1)(G), the Applicant has or will have available and will provide the amount of funds required by 49 U.S.C. 5316(g) for the local share, and that those funds will be provided from approved non-Federal sources except as permitted by Federal law;
 - (8) In compliance with 49 U.S.C. 5307(d)(1)(H), the Applicant will comply with: 49 U.S.C. 5301(a) (requirements for public transportation systems that maximize the safe, secure, and efficient mobility of individuals, minimize environmental impacts, and minimize transportation-related fuel consumption and reliance on foreign oil); 49 U.S.C. 5301(d) (special efforts to design and provide public transportation for elderly individuals and individuals with disabilities); and 49 U.S.C. 5303 through 5306 (planning and private enterprise requirements; and
- B. In compliance with 49 U.S.C. 5316(d), the Applicant certifies that (1) with respect to financial assistance authorized under 49 U.S.C. 5316(c)(1)(A), it will conduct in cooperation with the appropriate MPO an areawide solicitation for applications, and make awards on a competitive basis

- and (2) with respect to financial assistance authorized under 49 U.S.C. 5316(c)(1)(B) or 49 U.S.C. 5316(c)(1)(C), it will conduct a statewide solicitation for applications, and make awards on a competitive basis;
- C. In compliance with 49 U.S.C. 5316(f)(2), the Applicant certifies that any allocations to subrecipients of financial assistance authorized under 49 U.S.C. 5316 will be distributed on a fair and equitable basis;
- D. In compliance with 49 U.S.C. 5316(g)(2), the Applicant certifies that before it transfers funds to a project funded under 49 U.S.C. 5336, that project has been or will have been coordinated with private nonprofit providers of services; and
- E. In compliance with 49 U.S.C. 5316(g)(3), the Applicant certifies that: (1) the projects it has selected or will select for assistance under that program were derived from a locally developed, coordinated public transit-human services transportation plan; and (2) the plan was developed through a process that included representatives of public, private and nonprofit transportation and human services providers and participation by the public; and
- F. In compliance with 49 U.S.C. 5316(c)(3), before the Applicant uses funding apportioned under 49 U.S.C. 5316(c)(1)(B) or (C) for projects serving an area other than that specified in 49 U.S.C. 5316(2)(B) or (C), the Applicant certifies that the chief executive officer of the State, or his or her designee will have certified to the Federal Transit Administrator, apart from these certification herein, that all of the objectives of 49 U.S.C. 5316 are being met in the area from which such funding would be derived.

20. NEW FREEDOM PROGRAM

Each Applicant for New Freedom Program assistance authorized under 49 U.S.C. 5317 must provide the following certifications and assurances on behalf of itself and any subrecipient that may be implementing its project. FTA may not award Federal assistance for the New Freedom Program until the Applicant provides these certifications by selecting Category "20".

- A. As required by 49 U.S.C. 5317(e)(1), which makes the requirements of 49 U.S.C. 5310 applicable to New Freedom grants to the extent the Federal Transit Administrator or his or her designee determines appropriate, by 49 U.S.C. 5310(d)(1), which makes the requirements of 49 U.S.C. 5307 applicable to Elderly Individuals and Individuals with Disabilities Formula grants to the extent the Federal Transit Administrator or his or her designee determines appropriate, and by 49 U.S.C. 5307(d)(1), the Applicant for New Freedom Program assistance authorized under 49 U.S.C. 5317 certifies and assures on behalf of itself and its subrecipients, if any, as follows:
 - (1) In compliance with 49 U.S.C. 5307(d)(1)(A), the Applicant has or will have the legal, financial, and technical capacity to carry out its proposed program of projects, including safety and security aspects of that program:
 - (2) In compliance with 49 U.S.C. 5307(d)(1)(B), the Applicant, has or will have satisfactory continuing control over the use of project equipment and facilities:
 - (3) In compliance with 49 U.S.C. 5307(d)(1)(C), the Applicant, will adequately maintain the project equipment and facilities;
 - (4) In compliance with 49 U.S.C. 5307(d)(1)(E), the Applicant, in carrying out a procurement financed with Federal assistance authorized under 49 U.S.C. 5320; (1) will use competitive procurement (as defined or approved by FTA), (2) will not use exclusionary or discriminatory specifications in its procurements, (3) will comply with applicable Buy America laws, and (4) will comply with the general provisions for FTA assistance of 49 U.S.C. 5323 and the third party procurement requirements of 49 U.S.C. 5325;
 - (5) In compliance with 49 U.S.C. 5307(d)(1)(G), the Applicant has or will have available and will provide the amount of funds required by 49 U.S.C. 5317(g) for the local share, and that those funds will be provided from approved non-Federal sources except as permitted by Federal law; and
 - (6) In compliance with 49 U.S.C. 5307(d)(1)(H), the Applicant will comply with: (1) 49 U.S.C. 5301(a) (requirements for public transportation systems that maximize the safe, secure, and efficient mobility of individuals, minimize environmental impacts, and minimize transportation-related fuel consumption and reliance on foreign oil); (2) 49 U.S.C. 5301(d) (special efforts to design and provide public transportation for elderly individuals and individuals with disabilities); and (3) 49 U.S.C. 5303 through 5306 (planning and private enterprise requirements);

- B. In compliance with 49 U.S.C. 5317(d), the Applicant certifies that (1) with respect to financial assistance authorized under 49 U.S.C. 5317(c)(1)(A), it will conduct in cooperation with the appropriate MPO an areawide solicitation for applications, and make awards on a competitive basis and (2) with respect to financial assistance authorized under 49 U.S.C. 5317(c)(1)(B) or 49 U.S.C. 5317(c)(1)(C), it will conduct a statewide solicitation for applications, and make awards on a competitive basis:
- C. In compliance with 49 U.S.C. 5317(f)(2), the Applicant certifies that, before it transfers funds to a project funded under 49 U.S.C. 5336, that project will be or will have been coordinated with private nonprofit providers of services; and
- D. In compliance with 49 U.S.C. 5317(e)(2), the Applicant certifies that any allocations to subrecipients of financial assistance authorized under 49 U.S.C. 5317 will be distributed on a fair and equitable basis; and
- E. In compliance with 49 U.S.C. 5317(f)(3) the Applicant certifies that; (1) projects it has selected or will select for assistance under that program were derived from a locally developed, coordinated public transit-human services transportation plan; and (2) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

21. Paul S. Sarbanes Transit in Parks Program

Each State tribal area, or local government authority that is an Applicant for Paul S. Sarbanes Transit in Parks Program assistance authorized by 49 U.S.C. 5320, is required to provide the following certifications and assurances. FTA may not award assistance for the Paul S. Sarbanes Transit in Parks Program to the Applicant until the Applicant provides these certifications by selecting Category "21".

- A. As required by 49 U.S.C. 5320(i), which makes the requirements of 49 U.S.C. 5307 applicable to Paul S. Sarbanes Transit in Parks Program to the extent the Federal Transit Administrator or his or her designee determines appropriate, and 49 U.S.C. 5307(d)(1), the Applicant certifies as follows:
 - (1) In compliance with 49 U.S.C. 5307(d)(1)(A), the Applicant, has or will have the legal, financial, and technical capacity to carry out its proposed program or projects, including safety and security aspects of that program;
 - (2) In compliance with 49 U.S.C. 5307(d)(1)(B), the Applicant, has or will have satisfactory continuing control over the use of project equipment and facilities;
 - (3) In compliance with 49 U.S.C. 5307(d)(1)(C), the Applicant, will adequately maintain the project equipment and facilities:
 - (4) In compliance with 49 U.S.C. 5307(d)(1)(E), the Applicant, in carrying out a procurement financed with Federal assistance authorized under 49 U.S.C. 5320; (1) will use competitive procurement (as defined or approved by the Secretary), (2) will not use exclusionary or discriminatory specifications in its procurements, (3) will comply with applicable Buy America laws, and (4) will comply with the general provisions for FTA assistance of 49 U.S.C. 5323 and the third party procurement requirements of 49 U.S.C. 5325;
 - (5) In compliance with 49 U.S.C. 5307(d)(1)(F) and with 49 U.S.C. 5320(e)(2)(C), the Applicant has complied with or will comply with the requirements of 49 U.S.C. 5307(c). Specifically, it: (1) has made available, or will make available, to the public information on the amounts available for the Paul S. Sarbanes Transit in Parks Program, 49 U.S.C. 5320, and the projects it proposes to undertake; (2) has developed or will develop, in consultation with interested parties including private transportation providers, the proposed projects to be financed; (3) has published or will publish a list of projects in a way that affected citizens, private transportation providers, and local elected officials have the opportunity to examine the proposed projects and submit comments on the proposed projects and the performance of the Applicant; (4) has provided or will provide an opportunity for a public hearing to obtain the views of citizens on the proposed projects; (5) has ensured or will ensure that the proposed projects provide for the coordination of transportation services assisted under 49 U.S.C. 5336 with transportation services assisted by another Federal Government source; (6) has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of projects; and (7) has made or will make the final list of projects available to the public;

- (6) In compliance with 49 U.S.C. 5307(d)(1)(H), the Applicant will comply with: (1) 49 U.S.C. 5301(a) (requirements for public transportation systems that maximize the safe, secure, and efficient mobility of individuals, minimize environmental impacts, and minimize transportation-related fuel consumption and reliance on foreign oil); (2) 49 U.S.C. 5301(d) (special efforts to design and provide public transportation for elderly individuals and individuals with disabilities); and (3) 49 U.S.C. 5303 through 5306 (planning and private enterprise requirements); and
- (7) In compliance with 49 U.S.C. 5307(d)(1)(I), The Applicant has a locally developed process to solicit and consider public comment before raising a fare or implementing a major reduction of public transportation; and
- B. In compliance with 49 U.S.C. 5320(e)(2)(A), (B) and (D), the Applicant assures that it will: (1) comply with the metropolitan planning provisions of 49 U.S.C. 5303; (2) comply with the statewide planning provisions of 49 U.S.C. 5304; and (3) consult with the appropriate Federal land management agency during the planning process.

22. TRIBAL TRANSIT PROGRAM

Each Applicant for Tribal Transit Program assistance must provide all certifications and assurance set forth below. Except to the extent that FTA determines otherwise in writing, FTA may not award any Federal assistance under the Tribal Transit Program until the Applicant provides these certifications and assurances by selecting Category "22".

In accordance with 49 U.S.C. 5311(c)(1) that authorizes the Secretary of Transportation to establish terms and conditions for direct grants to Indian tribal governments, the Applicant certifies and ensures as follows:

- A. The Applicant ensures that;
 - (1) It has or will have the necessary legal, financial, and managerial capability to apply for, receive, and disburse Federal assistance authorized for 49 U.S.C. 5311; and to carry out each project, including the safety and security aspects of that project;
 - (2) It has or will have satisfactory continuing control over the use of project equipment and facilities;
 - (3) The project equipment and facilities will be adequately maintained; and
 - (4) Its project will achieve maximum feasible coordination with transportation service assisted by other Federal sources.
- B. In accordance with 49 CFR 18.36(g)(3)(ii), the Applicant certifies that its procurement system will comply with the requirements of 49 CRF 18.36, or will inform FTA promptly that its procurement system does not comply with 49 CFR 18.36.
- C. To the extent applicable to the Applicant or its Project, the Applicant certifies that it will comply with certifications, assurances, and agreements in Category 08 (Bus Testing), Category 09 (Charter Bus Agreement), Category 10 (School Transportation Agreement), Category 11 (Demand Responsive Service), Category 12 (Alcohol Misuse and Prohibited Drug Use), and Category 14 (National Intelligent Transportation Systems Architecture and Standards) of this document.
- D. If its application exceeds \$100,000, the Applicant agrees to comply with the certification in Category 02 (Lobbying) of this document.

23. TIFIA PROJECTS

Each Applicant for Transportation Infrastructure Finance and Innovation Act (TIFIA) assistance authorized under 23 U.S.C. chapter 6 is required to provide the following certifications and assurances. FTA may not award Infrastructure Finance assistance until the Applicant provides these certifications by selecting Category "23".

A. As required by 49 U.S.C. 5323(o), which makes the requirements of 49 U.S.C. 5307 applicable to Applicants seeking TIFIA credit assistance authorized under 23 U.S.C. chapter 6, and by 49 U.S.C. 5307(d)(1), the Applicant certifies as follows:

- (1) In compliance with 49 U.S.C. 5307(d)(1)(A), the Applicant will have the legal financial, and technical capacity to carry out its proposed program of projects, including safety and security aspects of that program;
- (2) In compliance with 49 U.S.C. 5307(d)(1)(B), the Applicant has or will satisfactory continuing control over the use of project equipment and facilities;
- (3) In compliance with 49 U.S.C. 5307(d)(1)(C), the Applicant will adequately maintain the project equipment and facilities;
- (4) In compliance with 49 U.S.C. 5307(d)(1)(D), the Applicant will ensure that elderly individuals and individuals with disabilities, or any person presenting a Medicare card issued to himself or herself pursuant to title II or title XVIII of the Social Security Act (42 U.S.C. 401 et seq. or 42 U.S.C. 1395 et seq.), will be charged for transportation during non-peak hours using or involving a facility or equipment of a project financed with Federal assistance authorized under 23 U.S.C. chapter 6 not more than fifty (50) percent of the peak hour fare;
- (5) In compliance with 49 U.S.C. 5307(d)(1)(E), the Applicant, in carrying out a procurement financed with Federal assistance authorized under 23 U.S.C. chapter 6: (1) will use competitive procurement (as defined or approved by the Secretary), (2) will not use exclusionary or discriminatory specifications in its procurements, (3) will comply with applicable Buy America laws, and (4) will comply with the general provisions for FTA assistance of 49 U.S.C. 5323 and the third party procurement requirements of 49 U.S.C. 5325:
- In compliance with 49 U.S.C. 5307(d)(1)(F), the Applicant has complied with or will comply with (6) the requirements of 49 U.S.C. 5307(c). Specifically, it: (a) has made available, or will make available, to the public information on the amounts available for Infrastructure Finance assistance, 23 U.S.C. chapter 6, and the projects it proposes to undertake; (b) has developed or will develop, in consultation with interested parties including private transportation providers, the proposed projects to be financed; (c) has published or will publish a list of projects in a way that affected citizens, private transportation providers, and local elected officials have the opportunity to examine the proposed projects and submit comments on the proposed projects and the performance of the Applicant: (d) has provided or will provide an opportunity for a public hearing to obtain the views of citizens on the proposed projects; (e) has assured or will assure that the proposed projects provide for the coordination of transportation services assisted under 49 U.S.C. 5336 with transportation services assisted by another Federal Government source; (6) has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of projects; and (f) has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of projects; and (g) has made or will make the final list of projects available to the public
- (7) In compliance with 49 U.S.C. 5307(d)(1)(G), the Applicant has or will have available and will provide the amount of funds required for the local share, and that those funds will be provided from approved non-federal sources except as permitted by Federal law;
- (8) In compliance with 49 U.S.C. 5307(d)(1)(H), (1) the Applicant will comply with: 49 U.S.C. 5301(a) (requirements for public transportation systems that maximize the safe, secure, and efficient mobility of individuals, minimize environmental impacts, and minimize transportation-related fuel consumption and reliance on foreign oil); (2) 49 U.S.C. 5301(d) (special efforts to design and provide public transportation for elderly individuals and individuals with disabilities); and (3) 49 U.S.C. 5303 through 5306 (planning and private enterprise requirements);
- (9) In compliance with 49 U.S.C. 5307(d)(1)(I), the Applicant has a locally developed process to solicit and consider public comment before raising a fare or implementing a major reduction of public transportation;
- (10) To the extent that the Applicant will be using funds authorized under 49 U.S.C. 5307 for the project, in compliance with 49 U.S.C. 5307(s)(1)(J), each fiscal year, the Applicant will spend at least one (1) percent of those funds authorized under 49 U.S.C. 5307 for public transportation security projects (this includes only capital projects in the case of a Applicant serving an urbanized area with a population of 200,000 or more), unless the Applicant has certified to FTA that such expenditures are not necessary. Public transportation security projects include increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages), increased camera surveillance on an area in or adjacent to that system, emergency telephone line or lines to contact law enforcement or security personnel in an area in or adjacent to that system, and any other project intended to increase the security

- personnel in an area in or adjacent to that system, and any other project intended to increase the security and safety of an existing or planned public transportation; and
- (11) To the extent that the Applicant will be using funds authorized under 49 U.S.C. 5307 for the project, in compliance with 49 U.S.C. 5309(d)(1)(K); (1) an Applicant that serves an urbanized area with a population of at least 200,000 will expend not less than one (1) percent of the amount it receives each fiscal year under 49 U.S.C. 5307 for transit enhancements, as defined at 49 U.S.C. 5302(a), and (2) if it has received transit enhancement funds authorized by 49 U.S.C. 5307(k)(1), its quarterly report for the fourth quarter of the preceding Federal fiscal year includes a list of the projects it has implemented during that fiscal year using those funds, and that report is incorporated by reference and made part of its certifications and assurances.
- B. As required by 49 U.S.C. 5323(o), which makes the requirements of 49 U.S.C. 5309 applicable to Applicants seeking Infrastructure Finance assistance authorized under 23 U.S.C. chapter 6, and by 49 U.S.C. 5309(g)(2)BB)(iii), 5309(g)(B)(iii), and 5309(i)(2)(C), the Applicant certifies that it will not seek reimbursement for interest and other financing costs unless it is eligible to receive Federal assistance for those expenses and its records demonstrate that it has used reasonable diligence in seeking the most favorable financing terms underlying those costs, to the extent FTA may require.

24. DEPOSITS OF FEDERAL FINANCIAL ASSISTANCE TO STATE INFRASTURUCTURE BANKS

The Applicant that intends to administers the State Infrastructure Bank (SIB) Program on behalf of the state (state) and that is also an Applicant for Federal assistance authorized under 49 U.S.C. chapter 53 that it intends to deposit in its SIB is requested to provide the following certifications and assurances on behalf of itself, its SIB, and each subrecipient. FTA may not award assistance for the SIB Program until the Applicant provides these certifications and assurances by selecting Category "24".

The State organization, serving as the Applicant (state) for Federal assistance for its State Infrastructure Bank (SIB) Program authorized by section 1602 of SAFETEA-LU, now codified at 23 U.S.C. 610, or by section 1511 of TEA-21, 23 U.S.C. 181 note, or by section 250 of the national Highway System Designation Act of 1995, as amended, 23 U.S.C. 181 note, agrees and assures the agreement of its SIB and the agreement of each recipient of Federal assistance derived from the SIB within the state (subrecipient) that each public transportation project financed with Federal assistance derived from SIB will be administered in accordance with:

- A. Applicable provisions of section 1602 of SAFETEA, now codified at 23 U.S.C. 610, or by section 1511 of TEA-21, 23 U.S.C. 181 note, or by section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. 181;
- B. The provisions of the FHWA, FRA, and FTA or the FHWA and FTA cooperative agreement with the state to establish the state's SIB Program; and
- C. The provisions of the FTA grant agreement with the state that provides Federal assistance for the SIB, except that any provision of the Federal Transit Administration Master Agreement incorporated by reference into that grant agreement will not apply if it conflicts with any provision of section 1602 of SAFETEA-LU, now codified at 23 U.S.C. 610, or section 1511 or TEA-21, 23 U.S.C. 181 note, or section 250 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. 181 note, and Federal guidance pertaining to the SIB Program, the provisions of the cooperative agreement establishing the SIB Program within the state, or the provisions of the cooperative agreement establishing the SIB Program within the state, or the provisions of the FTA grant agreement, except to the extent FTA determines otherwise in writing;
- D. The requirements applicable to projects of 49 U.S.C. 5307 and 5309, as required by 49 U.S.C. 5323(0); and
- E. The provisions of any applicable Federal guidance that may be issued as it may be amended from time-to-time, unless FTA has provided written approval of an alternative procedure or course of action;

The following list summarizing the statutes, regulations, Executive Orders and administrative requirements provided in this Attachment and are part of this Assurance.

LISTS OF STATUTES, REGULATIONS, EXECUTIVE ORDERS, AND ADMINISTRATIVE REQUIREMENTS APPLICABLE TO SECTION 5311 PROGRAM

STATUTES

18 U.S.C. 1001

which provides criminal sanctions for those who knowingly and willfully provide false information to the Federal Government.

Section 5323(b) of the FT Act, 49 U.S.C. 5301 et. seq.

which requires, among other things, the recipient to provide a certification in the case of capital projects that it:

- has afforded an adequate opportunity for public hearings pursuant to adequate prior notice, and held such hearings unless no one with a significant economic, social, or environmental interest in the matter, request a hearing;
- (2) has considered the economic and social effects of the project and its impact on the environment; and
- (3) has found that the project is consistent with official plans for the comprehensive development of the urban area.
- Section 5323(a)(1) of the FTA Act, 49 U.S.C. 5301 et. seg.

which requires, among other things, the recipient to provide to the maximum extent feasible for the participation of private mass transportation companies

Section 5323(d) of the FTA Act, 49 U.S.C. 5301 et. seq.

which requires, among other things, the recipient to enter into an agreement with FTA not to provide charter service that will foreclose private operators

Section 5323(f) of the FTA Act, 49 U.S.C. 5301 et. seg.

which requires, among other things, the recipient to enter into an agreement with FTA not to provide exclusive school bus operations

Section 5302 of the FTA Act, 49 U.S.C. 5301 et. seq.

which provides definitions applicable to the use of grant funds

Section 5333 of the FTA Act, 49 U.S.C. 5301 et. seq.

which requires, among other things, the recipient to comply with applicable labor requirements

Section 5311 of the Federal Transit Act, as amended, 49 U.S.C. 5301 et. seq.

Section 5332 of the FTA Act, 49 U.S.C. 5301 et. seq.

which, among other things, prohibits discrimination on the basis of race, color, creed, national origin, sex or age

Section 5310 of the FTA Act. 49 U.S.C. 5301 et. sea.

which provides, among other things, for the planning and design of mass transportation facilities to meet the special needs of elderly persons and persons with disabilities.

Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000(d)

which, among other things, prohibits discrimination on the basis of race, color or national origin by recipients of Federal financial assistance

- Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000(e) which, among other things, prohibits discrimination in employment
- Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794
 which, among other things, prohibits discrimination on the basis of handicap by recipients of
 Federal financial assistance
- "Hatch Act", 5 U.S.C. 1501, et seq.
 which, among other things, imposes certain restrictions on political activities of recipients of Federal financial assistance.
- "Buy America Requirements", Section 165 of the Surface Transportation Assistance Act of 1982, P.L. 97-424 which, among other things, requires that steel, and manufactured products procured under FTA-funded contracts of a certain size be of domestic manufacture or origin (with four exceptions)
- Davis-Bacon Act, as amended, 40 U.S.C. 276a, *et seq.*which requires, among other things, that all mechanics and laborers working on federally assisted construction projects (in excess of \$2,000 contract value) be paid not less often than once a week, at wage rates computed at an amount not less than the prevailing wages for similar work in the same geographic area of the project
- Copeland "Anti-Kickback" Act. 40 U.S.C. 874
 which, among other things, prohibits payroll deductions from the wages of employees who are
 covered by the Davis-Bacon Act for any reason except those specifically stated in the Copeland
 Act
- Contract Work and Safety Standards Act, 40 U.S.C. 327-332
 which, among other things, establishes the required basis and conditions for hours of work and for overtime pay of laborers and mechanics, and directs the Department of Labor to formulate construction safety and health standards
- National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.
 which, among other things, prohibits Federal assistance that will adversely affect the quality of the environment
- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4610, et seq. which, among other things, establishes the terms and conditions for compensation to property owners and occupants who are displaced as a result of federally assisted projects
- Archaeological and Historic Preservation Act of 1966, 16 U.S.C. 469a-1, *et seq.* which provides protection for historically valuable property
- National Historic Preservation Act of 1966, 16 U.S.C. 470, *et seq.* which, among other things, provides for the protection of national historic sites
- Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, 33 U.S.C. 1251, et seq. which, among other things, sets limits on pollutants discharged in international waterways and requires safeguard against spills from oil storage facilities
- Clean Air Act of 1955, as amended 42 U.S.C. 7402, et seq. which, among other things, establishes national standards for vehicle emissions
- Energy Policy and Conservation Act, 42 U.S.C. 6321

which, among other things, authorizes development and implementation of State energy conservation plans

National Flood Insurance Act of 1968, 42 U.S.C. 4011, et seq.

which, among other things, authorizes a national flood insurance program

Flood Disaster Protections Act of 1973, 42 U.S.C. 4012a, et seq.

which, among other things, requires the purchase of flood insurance by recipients of Federal financial assistance who are located in areas having special flood hazards

Single Audit Act 1984, P.L. 98-502

which establishes audit requirements for State and local governments that receive Federal aid

REGULATIONS

49 C.F.R. Part 600, et seq.

regulations promulgated by FTA

49 C.F.R. Parts 21, 23, 25, 27, 37 and 38

regulations promulgated by the Department of Transportation governing Title VI of the Civil Rights Act of 1964, Minority Business Enterprise, Relocation and Land Acquisition, Nondiscrimination on the Basis of Handicap, and the Americans with Disabilities Act, respectively.

36 C.F.R. Part 800

regulations promulgated by the Advisory Council on Historic Preservation

46 C.F.R. Part 381

regulations promulgated by the Maritime Administration governing cargo preference requirements

31 C.F.R. Part 205

regulations promulgated by the Department of Treasury governing letter of credit

40 C.F.R. Part 15

regulations promulgated by the Environmental Protection Agency pertaining to administration of Clean Air and Water Pollution requirements of grantees

29 C.F.R. Parts 5 and 215

regulations promulgated by the Department of Labor pertaining to construction labor and transit employee protections

EXECUTIVE ORDERS

E.O. 11246

which establishes requirements in construction activities for contracts over \$10,000

E.O. 11988

which establishes certain specific requirements related to flood protection and control

E.O. 12372

which rescinds OMB Circular A-95 and establishes new procedures for State review of Federally funded projects

ADMINISTRATIVE REQUIREMENTS

Office of Management and Budget (OMB) Circular A-87

which provides cost principles applicable to grants and contracts with State and local governments

Office of Management and Budget (OMB) Circular A-102 which provides uniform requirements for assistance to State and local governments

Office of Management and Budget (OMB) Circular A-128 which applies to audits of State and local governments

FEDERAL FISCAL YEAR 2010 CERTIFICATIONS AND ASSURANCES FOR SECTIONS 5311/5311(f) FEDERAL ASSISTANCE PROGRAMS

Nam	e of Applicant:	
	Applicant agrees to comply with applicable requirements of Ca Applicant may make this selection in lieu of individual selectio	
OR		
	Applicant agrees to comply with applicable requirements of the gories it has selected:	following
01.	Required of Each Applicant	
02.	Lobbying (Applies to grants in excess of \$100,000)	
03.	Procurement Compliance	
04.	Private Providers of Public Transportation	
05.	Public Hearing	
06.	Acquisition of Rolling Stock (Applies to grants for the purchase of revenue rolling stock)	
07.	Acquisition of Capital Assets by Lease	
08.	Bus Testing	
09.	Charter Service Agreement	
10.	School Transportation Agreement	
11.	Demand Response Service	
12.	Alcohol Misuse and Prohibited Drug Use	
13.	Interest and Other Financing Cost	
14.	Intelligent Transportation Systems	
15.	Urbanized Area Formula Program	
16.	Clean Fuels Grant Program	
17.	Elderly Individuals & Individuals with Disabilities Formula Program & Pilot Program	
18.	Nonurbanized Area Formula Program For States	
19.	Job Access and Reverse Commute Program	
20.	New Freedom Program	
21.	Paul S. Sarbanes Transit in Parks Program	
22.	Tribal Transit Program	
23.	TIFIA Projects	

Deposits of Federal Financial Assistance to a State Infrastructure Bank

24.

FTA Certifications and Assurances for Federal Fiscal Year 2010

Name of applicant:	
Name and Relationship of Authorized Representative:	
and assurances on the Applicant's behalf and bind the A	e that the Applicant has duly authorized me to make these certifications applicant's compliance. Thus, the Applicant agrees to comply with all strative guidance required for each application it makes to the Federal
	applicant selects on the other side of this form, as representative of as required, to each project for which the Applicant seeks now, or may 0.
herein with this document and any other submission made Remedies Act of 1986, 31 U.S.C. 3801 <i>et seq.</i> , and implei CFR Part 31 apply to any certification, assurance, or subr	certifications and assurances it has made in the statements submitted to FTA, and acknowledge that the provisions of the Program Fraud Civil mented by U.S. DOT regulations, "Program Fraud Civil Remedies, " 49 nission made to FTA. The criminal fraud provisions of 18 U.S.C. 1001 n connection with the Federal public transportation program authorized
In signing this documentation, I declare under penalties of statements made by me on behalf of the Applicant are true	perjury that the foregoing certifications and assurances, and any other and correct.
Date:	
	Authorized Representative of Applicant
AFFIRMATION OF APPLICANTS ATTORNEY	
for	(name of Applicant)
law to make and comply with the certifications and assura	hereby affirm to the Applicant that it has authority under state and local ances as indicated on the foregoing pages, I further affirm that, in my made and constitute legal and binding obligations on the Applicant.
I further affirm that, to the best of my knowledge, there is not the validity of these certifications and assurances or of the part of the	o legislation or litigation pending or imminent that might adversely affect performance of the project.
Date:	
	Applicant's Attorney

Unless the Applicant seeks only an FTA university and research training grant authorized by 49 U.S.C. 5312(b), the Applicant's legal counsel is required to affirm the legal capacity of the Attorney's affirmation.

FTA Certifications and Assurances for Fiscal Year 2010

LOCAL ASSURANCES

Ιn	e nereby assures and certifies with respect to this application
	(Applicant)
for	Section 5311 assistance that:
1.	The Applicant has the requisite fiscal, managerial, and legal capability to carry out the Section 5311 Program and to receive and disburse federal funds.
2.	Some combination of state, local, and/or private funding sources has or will be committed to provide the required local share.
3.	The Applicant has or will have by the time of delivery, sufficient funds to operate the vehicles and/or equipment purchased under this project, as applicable.
4.	Private for-profit transit and paratransit operators have been afforded a fair and timely opportunity by the applicant to participate to the maximum extent feasible in the planning and provision of the proposed transit services.
5.	The Applicant has to the maximum extent feasible coordinated with other transportation providers and users, including social service agencies capable of purchasing service.
<u> </u>	
Sig	gnature of Authorized Official
Tit	le of Authorized Official

Date

STATEMENT OF ACCEPTANCE OF THE SPECIAL SECTION 5333(b) WARRANTY

All Applicants/Recipients must execute the following statement of acceptance.

The	and		,
The (Applicant) agree to make use of the Spray Rural and Small Urban Transported amended.	pecial Section 5333(b) Wa		sive application to the
The Applicant and Recipient Special Section 5333(b) Wa become a part of any contract	rranty for its pending Sec	ction 5311 assistance grant	
Signed by Applicant			
Date			

Signed by Recipient/Contract	Provider		
NOTE: The warranty is provide	ded in Appendix F for revi	ew.	

** FTA requires that each subrecipient post the Special Warranty (Appendix F) with Attachment 7 and Attachment 8 where affected employees may see it.

SPECIAL SECTION 5333(b) WARRANTY LIST OF PUBLIC TRANSPORTATION PROVIDERS & LABOR UNIONS

This form must be completed by all Applicants/Recipients. If there are no other eligible providers in your service area, mark a "N/A" under the Other Eligible Providers section.

Applicant:	Union Rep.:
Service Area Description:	
Recipients/Contract Providers (if different than Applicant):	Union Representation (Union & Local #):
Other Eligible Providers in Applicant's Service Area:	Union Representation (Union & Local #):

CATEGORICAL EXCLUSION CLASSIFICATION OF CAPITAL PROJECTS CHECKLIST

The following checklist identifies transit projects that are considered Categorical Exclusions (CEs) by FTA. Please check the category or categories under which your project should be classified. If your project does not fall under any of the standard categories, but you feel it meets the criterion of a CE (the project will have no significant impact on the environment), then provide project information justifying a CEs classification.

capital project is a categorical exclusion because it is for:

The

	(Name of Applicant)
[]	Planning and technical studies which will not fund the construction of facilities or acquisition of capita equipment.
[]	Engineering to define the elements of a proposal or alternatives sufficiently so that environmental effects can be assessed.
[]	Ridesharing activities and transportation corridor fringe parking facilities.
[]	Program administration and technical assistance activities by the applicant to administer Section 5311 funds.
[]	Project administration and operating assistance to continue existing service or increase service to meedemand.
[]	Purchase of vehicles of the same type (same mode) either as replacements or to increase the size of the fleet where such increase can be accommodated by existing facilities or by new facilities which themselves are within a categorical exclusion.
[]	Rehabilitation or reconstruction of existing rail and bus buildings and ancillary facilities where no additional land is required and there is no substantial increase in the number of users.
[]	Purchase and installation of operating or maintenance equipment to be located within the transit facility and with no significant physical impacts off the site where the facility is located.
[]	Installation of signs, small passenger and bus shelters, and traffic signs where no substantial land acquisi tion or traffic disruption will occur.
[]	Construction of new bus storage and maintenance facilities in areas used predominantly for industrial o transportation purposes where such construction is not inconsistent with existing zoning and located on one near a street with adequate capacity to handle anticipated bus and support vehicle traffic.
[]	Acquisition of land in which the property will not be modified, the land use will not be changed, and dis placements will not occur. For projects other than FTA advance land loans, this categorical exclusion is limited to the acquisition of minor amounts of land. This is undertaken for the purpose of maintaining the current land use and preserving alternatives to be considered in the environmental process. Advance land acquisition shall not limit the evaluation of alternatives, including shifts in alignment for a construction project, which may be required in the National Environmental Policy Act process.
[]	Emergency repairs under 23 U.S.C. 125 which do not substantially change the design and are commenced during or immediately after the occurrence of a natural disaster or catastrophic failure.

Applicant's Certification of Use of Project Equipment, Facilities and Property

accordance with the terms and condition	acilities and property continue to be used in sof all applicable capital and operating grant contribution has been refunded or reduced.
Name of Authorized Official	
Signature of Authorized Official	
Title of Authorized Official	
Name of Applicant	
Date	

PASS-THROUGH AGREEMENT

THIS AGREEMENT made this day of, 20 among (County) Indiana, act through the(Governing Body of County Commissioners) (hereinafter referred to as the "Application of County Commissioners) (hereinafter referred to as the "Application of County Commissioners) (hereinafter referred to as the "Application of County C	ant")
and(Service Provider), a private nonprofit corporation, (hereinafter referred to as "Service Provider"), by its duly authorized representative(s), whose mailing address is:	the
	
WITNESSETH	
WHEREAS, the Applicant has made application for the Operating Assistance Program under Section 5311 of the Federal Transit Act with the Application incorporated and made a part of this Agreement b reference (see attached "Exhibit A");	
WHEREAS, the goals of the Operating Assistance Program are to enhance access to people in non-urbanized areas for purposes such as health care, shopping, education, recreation, public services, are employment;	nd
WHEREAS, the Service Provider has the expertise and desire to provide said transportation; and	
WHEREAS, the Applicant has agreed by resolution, or such similar instrument, to subcontract with the Service Provider.	9
NOW THEREFORE, in consideration of the mutual promises and covenants herein set forth, the Appliand Service Provider agree as follows:	licant
SECTION I: Purpose	
The purpose of this Agreement is to provide for the undertaking of transportation services to the gener public in and around, Indiana,	ral
hereinafter referred to as the "Project," by the Service Provider as outlined in Section I, Paragraph A, Subparagraph 1 of the Application and to state the terms, conditions and mutual understandings of the parties as to the manner in which the Project will be undertaken and completed.	е
SECTION II: Project Implementation	
The Service Provider agrees, based on the Grant Assistance provided, to undertake and complete the Project as described in the Application, filed with the approval of the Indiana Department of Transporta ("INDOT") and the Federal Transportation Administration ("FTA") in accordance with the terms and conditions of this Agreement.	
SECTION III: Project Duration	
The Service Provider shall commence activities associated with the Project described in the Application from 20 until 20 as authorized by FTA and INDOT.	วท

SECTION IV: Level of Funding

Reimbursement to the Service Provider shall be through a cost reimbursement contract. These expenditure levels are contingent upon the necessary State and Federal funds to operate the Project. If State or Federal funding sources are not available and alternative funding cannot be obtained, the Project will be adjusted so as not to incur un-reimbursable expenses.

SECTION V: Eligible Project Expenditures

Project expenditures eligible for reimbursement under the Cost Reimbursement Contract are only for those expenditures which are eligible for Section 5311 reimbursement and are further identified in the budget form accompanying the Applicant's Application.

Federal Office of Budget and Management Circular A-87 (OMB-A87) shall be used as guidance in establishing cost principals applicable to the grant.

SECTION VI: Reimbursement

Eligible Project costs will be reimbursed on a quarterly basis by the Applicant upon presentation of claim voucher, State Form 3211, by the Service Provider.

SECTION VII: Financial Statement

The Service Provider shall submit to the Applicant, at such times as it may require, such financial statements, records, and fiscal documents as may be deemed necessary by FTA and INDOT. Furthermore, the Service Provider shall submit to the Applicant an annual certified audit performed by an independent Certified Public Accountant ("CPA"). The Service Provider shall develop and maintain financial reports which are necessary for the effective control and management of operations and shall maintain financial records required by funding sources in accordance with generally accepted accounting procedures.

SECTION VIII: Audit and Inspection

The Service Provider shall permit the Applicant, INDOT, FTA, or their authorized representative, to inspect all vehicles, facilities and equipment purchased by the Applicant, including those obtained through the Section 5311 Project, all transportation services rendered by the Service Provider by the use of such vehicles, facilities and equipment and all relevant Project data and records. The Service Provider shall also permit the above-named persons to audit the books, records and accounts of the Service Provider pertaining to the Project. Any overpayment to the Service Provider as determined by an audit must be immediately refunded to the Applicant.

SECTION IX: Use of Applicant's Equipment

Any vehicles, equipment or facilities purchased under the Section 5311 Assistance Program and titled in the name of the Applicant, hereinafter referred to as "Capital Assets," are hereby leased to the Service Provider for an annual fee. The vehicles, equipment or facilities covered by this lease shall only be used by the Service Provider for the purpose of transportation services. Any fares, fees or other proceeds, including leases or sub-lease obtained by the Service Provider, shall be used in the performance of the transportation services and shall be reported quarterly to the Applicant. Any such proceeds shall be deducted from the monthly operating costs as allowed.

The Service Provider will maintain proper liability, collision, and property damage insurance for the service provided in the Project.

Upon the release of Capital Assets by FTA and INDOT, or in the event the Project is terminated, the Applicant will transfer ownership of any Capital Assets for which the Service Provider has provided the required local matching funds to the Service Provider.

SECTION X: Consultant Contracts

Contracts for consultant services in excess of \$10,000 must be submitted by the Service Provider for review and prior approval by the Applicant, INDOT and FTA. The Applicant and/or Service Provider will abide by the requirements of FTA Circular 4220.1E (Third Party Contracting Requirements) in procuring services.

SECTION XI: Project Monitoring and Evaluation Data

The Service Provider will provide quarterly and monthly financial and ridership reports to the Applicant. The quarterly and monthly reports shall include revenue and expense statements including a detailed report of expenses by budget category as identified in the Budget Form accompanying the Applicant's Application.

The Service Provider shall provide all data for the monitoring and evaluation of the Project as requested by INDOT and/or FTA. The Service Provider shall provide necessary information such as ridership, vehicle, hours of service, operations costs and revenues when such information is requested by INDOT and/or FTA.

SECTION XII: Changes in Project Scope or Budget

The Service Provider shall immediately notify the State, FTA and the Applicant of any change in conditions, or of any event, which will affect its ability to perform the Project in accordance with the provisions of this Agreement.

SECTION XIII: Labor Protection

Provisions of the Department of Labor Special Section 5333(b) Warranty signed by the Service Provider and the Applicant are hereby incorporated into this Agreement by reference (see attached "Appendix C").

SECTION IXV: Equal Employment Opportunity

In connection with the execution of this Agreement, the Service Provider shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin. The Service Provider shall take affirmative action to insure the applicants are employed and treated fairly during their employment. Such action shall include, but not be limited to the following; employment, upgrade, demotion, or transfer, recruitment, or advertising, layoffs, or termination, rate of pay, or other forms of compensation; and selection for training including apprenticeship.

SECTION XV: Non-Discrimination

The Service Provider agrees that as a condition to the Agreement that no otherwise qualified disabled person shall, solely by reason of his/her disability, be excluded from participation in, be denied, the benefits of, or otherwise be subjected to discrimination under this program or activity that receives or benefits from Federal financial assistance administered by the Applicant through funding by the United States Department of Transportation.

SECTION XVI: Civil Rights Act of 1964

The Service Provider shall comply with all requirements imposed under Title VI of the Civil Rights Act of 1964 (78 Stat. 252), as amended, and any and all regulations issued pursuant thereto (CFR Title 49, Subtitle A, Part 21).

SECTION XVII: Section 5311 Program Compliance

The Service Provider shall comply with all other assurances and regulation included in the Section 5311 Program as cited in the Operating Assistance Application.

SECTION XVIII: Termination

The Applicant may, by written notice to the Service Provider, terminate the Project and cancel this Agreement

SECTION IXX: Agreement Changes

Any proposed change in this Agreement must have the approval of both the Applicant and the Service Provider prior to becoming effective.

SECTION XX: Dispute

Any dispute concerning a question of fact in connection with purposes contained within this Agreement shall be referred to the Commissioner of INDOT, whose decision shall be final.

SECTION XXI: Responsibility for Claims and Liability

The Service Provider shall be responsible for and save harmless the Applicant for all damage to life and property due to activities of the Service Provider, its subcontractors, agents or employees, in connection with the execution of the Project.

(Remainder of this page intentionally blank)

IN WITNESS WHERE					(Applicant)	have
caused this Agreemen	it to be execu	ited in their respec	tive name	S.		
EXECUTED THIS	_ DAY OF _		, 20			
			—			
Date:						
By:		A	Authorized	Represer	ntative of Applicant	
			101101121	1100.000	nan on Applicant	
Date:						
			-			
Authorized Se	rvice Provide	r Representative				
CERTIFICATION OF	APPLICANT'	S ATTORNEY				
						
I affirm that to the best	of my knowl	edge the Applican	t and Serv	ice Provid	er are in total complia	ance with all
items and conditions of						
and the Applicant, here						
I further affirm that, to	the hest of m	v knowledge ther	e is no lea	islation or	litigation pending or t	hreatened
that might adversely at						
Project. Furthermore, i	if I become a	ware of circumstar	nces that o	change the		
statements, I will notify	the Applicar	nt, Service Provide	r and IND	OT.	-	-
Date:						
By:						

APPENDIX A

SECTION 5311 BUDGET - EXPENSE AND REVENUE DEFINITIONS

EXPENSE DEFINITIONS

501 LABOR

- 501.01 Operators' Salaries and Wages: The pay and allowances due employees in exchange for the labor services they render on behalf of the transit system. This category includes only those employees who are classified as revenue vehicle operators.
- 501.02 Other Salaries and Wages: The labor and employees of the transit system who are not classified as revenue vehicles operators. This category includes dispatchers, mechanics, bus washers, building (garage) maintenance workers, etc. Also includes the labor of employees of the transit system (or sponsoring agency) who perform administrative functions, such as managers, other professionals, and clerical staff.
- FRINGE BENEFITS are payments or accruals to others (insurance companies, governments, etc.) on behalf of an employee. These include the employer's share of FICA, PERF, other retirement, health insurance, life insurance, dental plans, unemployment insurance, dental plans, unemployment insurance, workmen's compensation insurance, and other benefits not associated with a piece of work. Also included are payments or accruals directed to an employee arising from something other than his performance of a piece of work. These include uniform and work clothing allowances, and paid absences, such as sick leave, holidays, vacation, jury duty, death in the family, military duty, etc.
- **SERVICES** is labor and other work provided by outside organizations for fees and related expenses. In most instances, service from an outside organization is procured as a substitute for in-house employee labor, except in the case of independent audits which could not be performed by employees in the first place. The substitution is usually made because the skills offered by the outside organization are needed for only a short period of time or are better than internally available skills. The charge for these services is usually based on the labor hours invested in performing the service.
 - 503.02 Advertising Fees: The labor and materials provided by an advertising agency in the development and production of advertising campaigns. Advertising media fees, regardless of whether they are paid to the advertising agency or to the media, are included in object class 509.08 (Miscellaneous Expense Advertising/Promotion Media).
 - 503.03 Professional and Technical Services: The labor provided by attorneys, accountants and auditors, marketing firms, investment banker, computer service companies, engineering firms, management consultants, transit industry consultants, etc. These services generally require specialized technical knowledge, and are usually performed under the supervision of the outside organization, rather than transit system personnel.
 - 503.05 Contract Maintenance Service: The maintenance of equipment under contract or on a single job basis with an outside organization. This category is for repair or maintenance work on operating vehicles, equipment, and garage buildings only, and is differentiated from professional and custodial services.
 - 503.06 Custodial Services: The performance of janitorial services, under contract or on a single job basis with an outside organization.
 - 503.99 Other Services: All other services not specifically identified in 503.02 503.06.
- MATERIALS AND SUPPLIES CONSUMED are tangible products obtained from outside suppliers or manufactured internally. Freight-in, purchase discounts, cash discounts, sales taxes and excise taxes (except on fuel and lubricants) are to be included in the cost of the material or supply. Charges to these expense accounts will be for the materials and supplies issued from inventory for use and for the materials and supplies purchased for immediate use, i.e. without going through inventory.

Appendix A (continued)

- 504.01 Fuel and Lubricants: Costs of gasoline, diesel fuel, propane, lubricating oil, grease, etc., for use in vehicles.
- 504.02 Tires and Tubes: 1) Cost of tires and tubes for replacement of tires and tubes on vehicles, and 2) lease payments for tires and tubes rented on a time or mileage basis.
- 504.99 Other Materials and Supplies: Cost of materials not specifically identified in 504.01 and 504.02 above, which are issued from inventory or purchased for immediate consumption. This category includes vehicle repair parts and maintenance supplies, office forms, cleaning supplies, etc.
- **505 UTILITIES** are payments made to various utilities for use of their resources, including electric, gas, water, sewer, garbage collection, telephone, etc.
- **CASUALTY AND LIABILITY COSTS** are costs of premium for insurance for coverage of the transit system against loss through damage to its own property, and for compensation of others for their losses due to acts for which the transit system is liable.
- **TAXES** are those taxes levied against the transit system by Federal, State, and local governments. Sales and excise taxes on materials and services purchased other than fuel and lubricants are not included in this category, but are to be accounted for as part of the base price of the material or service.
 - 507.04 Vehicle Licensing and Registration Taxes: The fees assessed by Federal, State, and local governments for granting authority to operate a motor vehicle.
 - 507.05 Fuel and Lubricant Taxes: Transit systems that show fuel tax for gasoline as an expense should also show revenue from the State's fuel tax refund program that public transit systems are eligible to receive. Systems that include the tax in item 504.01 should note on their budget that they are doing so, and also show any fuel tax refund as a contra-expense under revenue category 407.04).
 - 507.99 Other Taxes: All other taxes not specifically identified in 507.04 and 507.05.
- **PURCHASED TRANSPORTATION SERVICE** is a payment or accrual to other transit systems for providing transportation service. A descriptive note to the budget explaining these expenses must be provided.
- **MISCELLANEOUS EXPENSES** are those expenses which cannot be attributed to any of the other major expense categories (i.e., 501 508 and 512 518).
 - 509.01 Dues and Subscriptions: Fees for membership in industry organizations and subscriptions to periodical publications to transit.
 - 509.02 Travel and Meetings: 1) Fares and allowances for transportation of transit system employees and related officials on airplanes, trains, etc.; 2) Expenses for food and lodging; 3) Charges for participation in industry conferences; 4) Other related business meeting expenses.
 - 509.08 Other Miscellaneous Expenses: Postage, etc.
- **512 LEASES AND RENTALS** are payments for the use of capital assets not owned by the transit system. A note to the budget listing the item(s) and estimated cost must be provided for the leases and rentals line item.
- **EQUIPMENT** is equipment not included in an approved or programmed Capital Assistance Grant. A separate project description and justification must be incorporated in the operating grant for equipment which exceeds \$1,000 total cost. The equipment to be purchased under the operating grant must also be itemized in a note to the project budget if it is in excess of \$1,000 of total cost. The equipment line item may not exceed \$5,000 and may not include vehicles of any type. An invoice for any expense(s) incurred under this line item must accompany the Section 5311 claim voucher.

Capital equipment purchased under an operating grant is subject to the requirements for submitting an annual use of project equipment certification, and other requirements outlined in OMB A-102.

Appendix A (continued)

518 INDIRECT EXPENSE - is cost incurred for a common or joint purpose benefiting more than one cost objective. (Refer to Section Program Manual, OMB Circular A-87, Attachment A, page 9 for complete description of indirect expenses.)

* * * * *

REVENUE DEFINITIONS

- 401 PASSENGER FARES includes revenue earned from carrying passengers during regular transit service. This includes base fare, zone changes, transfer costs, and quantity purchase discounts applicable to the passenger's ride.
 - 401.01 Full Adult: The revenue earned from carrying passengers who pay the full adult fare.
 - 401.02 Senior Citizen: The revenue earned from carrying passengers who pay a special, reduced fare because they are older than a prescribed age limit.
 - 401.03 Student: The revenue earned from carrying passengers who pay a special, reduced fare because they are enrolled in an educational institution.
 - 401.04 Child: The revenue earned from carrying passengers who pay a special, reduced fare because they are younger than a prescribed age limit.
 - 401.05 Disabled: The revenue earned from carrying passengers who pay a special, reduced fare because they have a disability.
 - 401.99 Other Fares: The revenue earned from carrying passengers who pay a special, reduced fare for some reason other than those specified in items 401.02 401.05.
- **SPECIAL TRANSIT FARES** includes revenues for rides given in regular transit service, but paid for by some organization rather than by the rider. Also, it includes rides given along special routes for which revenue is guaranteed by a beneficiary of the service.
 - 402.03 Special Route Guarantees: The amounts paid by industrial firms, shopping centers, public and private universities, etc., to guarantee a minimum revenue on a line operated especially for the benefit of the payer.
 - 402.04 State and Local Government Contracts: The revenue earned under contractual arrangements with state or local governments for transit fares.
 - 402.05 Other Contracts: The revenue earned under contractual arrangements with nongovernmental entities for transit fares.
- 403 SCHOOL BUS SERVICE revenues earned from operating vehicles under school bus contracts.
- **CHARTER SERVICE** includes revenues earned from operating vehicles under charter service contracts. The amount recorded should be net income generated from the charter service.
- **406 AUXILIARY TRANSPORTATION** includes revenues earned from operations closely associated with transportation operations.
 - 406.01 Station Concessions: The revenue earned from granting rights to concessionaires to operate newsstands, candy counters, etc., in transit system stations.
 - 406.03 Advertising Services: The revenue earned from displaying advertising materials on transit system vehicles and property. The amounts recorded herein should be net of any fees paid to advertising agencies that place the advertisements with the transit system. This may be used as local match.
 - 406.99 Other Auxiliary: The revenue earned from other auxiliary services during regular transit services; such as delivery of packages, telegrams, medicine, etc.

Appendix A (continued)

- **407 NONTRANSPORTATION** includes revenue earned from activities not associated with the provision of transit service.
 - 407.01 Sale of Maintenance Services: The revenue earned from performing maintenance services for other organizations not associated with the transit property.
 - 407.02 Rental of Revenue Vehicles: Revenue earned from leasing transit vehicles to other organizations.
 - 407.04 Interest Income Earned on Working Capital (Contra-Expense): Income earned from fare box and fare box related revenue must be used to cover the total operating expenses (i.e., it is not eligible as local match). Income earned on non-fare box and other local funds may be used as either revenues to cover total expenses or local match.
 - 407.99 Other nontransportation: Revenues earned from activities; such as park-and-ride lot revenues, etc.
- 450 OTHER CONTRA-EXPENSES are revenue items which offset transit expenses and which are therefore eliminated from the deficits eligible for Section 5311 assistance. Four common types of other contra-expenses include: 1) Proceeds from the sale of equipment in excess of the depreciated value private operators only); 2) Cash discounts and refunds which directly offset accrued expenses; 3) Insurance claims and reimbursements which directly offset accrued liabilities; 4) State fuel tax rebates to public operators.

Appendix B

SAMPLE CAPITAL BUDGET

() CAPITAL PROJECT BUDGET 5311/5311(f)

() INTERCITY MARKETING/PLANNING

CAPITAL PROJECT BUDGET (double-click spreadsheet to enter figures)

SYSTEM NAME:	Transit City
PROJECT TIME PERIOD:	January 1, 2011 through June 30, 2012

PROJECT DESCRIPTION Please Identify SCOPE & ACTIVITY of each item.	COST
SCOPE: 111-01 Bus - Rolling Stock (Qty: 2) ACTIVITY: 11.12.15 Lift Equip. Van (1) - Replace 11.62.03 Two Way Radio (1)	\$30,000.00 \$1,000.00
SCOPE: 113-01 Bus - Stations/Stops/Terminals (Qty: 3) ACTIVITY: 11.33.10 Passenger Shelters (3)	\$9,000.00
SCOPE: 114-02 Bus - Support Equip/Facilities (Qty: 1) ACTIVITY: 11.42.07 Computer Hardware (1)	\$3,500.00
TOTAL EXPENSES	\$43,500.00
PROJECT FINANCING	
Local (specify source)	\$4,350.00
State Match (PMTF)	\$4,350.00
Federal (FTA)	\$34,800.00
Other (specify source)	\$0.00

Prepared by: John Q. Public Date: August 31, 2010

Appendix C

SAMPLE FORMAT FOR NOTICE OF PUBLIC HEARING

NOTICE OF PUBLIC HEARING

RE:	(Brief title or description of project, e.g., C.Y. 2011 Capital Assistance to purchase four small diese transit vehicles.)					
1.	Notice is hereby given that a pubic hearing will be held by					
	The project is generally described as follows:					
	A. Description of Project					
		•	Indicate the project period, name of applicant, and name(s) of operator(s) to be assisted.	public transportation		
		•	Indicate capital items you will purchase or build.			
		•	Identify the estimated project cost, federal and local match, and the local match.	anticipated sources of		
	B.	Rel	location			
		•	Only applies to acquisition of real or personal property and construction	n.		
		Per	Specify #) persons, families and/or businesses are estimated to be dis rsons, families and businesses so displaced will be afforded rights as relocation Assistance and Real Property Acquisition Act of 1970.			
	C.	Env	vironment			
		•	Only applies to acquisition of real or personal property and construction	n.		
			dicate whether the proposed project will or will not have a significant on the service area.)	environmental impact		
2.	At the hearing, <u>(Applicant)</u> will afford an opportunity for interested person, agencies and private transportation providers to be heard with respect to the social, environmental, and economic aspects of the grant. Interested persons may submit orally or in writing evidence and recommendations with respect to said grant at the public hearing.					
3.	A c	юру	of the application is currently available for public inspection at	(location) .		
Appli	cant	ˈs Au	uthorized Representative			

Appendix D

SAMPLE FORMAT FOR OPPORTUNITY TO HOLD A PUBLIC HEARING

NOTICE OF OPPORTUNITY TO HOLD A PUBLIC HEARING

RE:	(Brief title or description of project, e.g., C.Y. 2011 Capital Assistance to purchase four small diesel transit vehicles.)		
1.	Notice is hereby given that, (Applicant) will provide an opportunity for a publication for the purpose of considering a grant for which federal capital assistance under Section 5311 of the Federal Transit Act, as amended, is being sought. The hearing will be held if an aperson interested in a hearing submits a request in writing that a hearing be held be (Applicant) within a ten (10) day period, after the publication of this notice.		
	The project is generally described as follows:		
	A. Description of Project		
	 Indicate the project period, name of applicant, and name(s) of public transportation operator(s) to be assisted. 		
	Indicate capital items you will purchase or build.		
	 Identify the estimated project cost, federal and local match, and the anticipated sources of local match. 		
	B. Relocation		
	Only applies to acquisition of real or personal property and construction.		
	(Specify #) persons, families and/or businesses are estimated to be displaced by thi project. Persons, families and businesses so displaced will be afforded rights as required by the Uniform Relocation Assistance and Real Property Acquisition Act of 1970.		
	C. Environment		
	Only applies to acquisition of real or personal property and construction.		
	(Indicate whether the proposed project will or will not have a significant environmental impactupon the service area.)		
2.	If a hearing is requested and scheduled,		
3.	A copy of the application is currently available for public inspection at(location).		
Appl	licant's Authorized Representative		

Appendix E

SAMPLE FORMAT FOR AUTHORIZING RESOLUTION

Resolution No
Resolution authorizing the filing of an application for a grant under Section 5311 of the Federal Transit Act, as amended.
WHEREAS, the U.S. Department of Transportation is authorized to make grants to states through the Federal Transit Administration (FTA) to support capital, operating and feasibility study assistance projects for nonurbanized public transportation systems under Section 5311 of the FTA Act of 1964, as amended;
WHEREAS, the Office of Transit, Indiana Department of Transportation (INDOT) has been designated by the Governor to make Section 5311 grants for public transportation projects;
WHEREAS, the contract for financial assistance will impose certain obligations upon the applicant, including the provision by it of the local share of project costs;
NOW, THEREFORE, BE IT RESOLVED BY:
1. That (Name and Title of Transit Provider) is authorized to execute and file an application on behalf of (Applicant) with the INDOT to aid in the financing of transit assistance projects pursuant to Section 5311 of the Federal Transit Act, as amended.
2. That (Name & Title of Transit Provider), is authorized to furnish such additional information as INDOT may require in connection with the application.
3. That (Name & Title of Transit Provider) is authorized to execute grant contract agreements on behalf of (Applicant)
4. The period of performance shall be January 1, 2011 through December 31, 2011 for operating grants and January 1, 2011 through June 30, 2012 for capital and marketing &/or planning grants
<u>CERTIFICATE</u>
The undersigned duly qualified and acting(Title of Officer), of the(Applicant) certifies that the foregoing is a true and correct copy of a resolution adopted at a legally convened meeting of the (Applicant) held on, 20
If Applicant has an official seal, impress here.
Signature of Recording Officer
Title of Recording Officer
 Date

APPENDIX F

Special Section 5333(b) Warranty for Application to the Small Urban and Rural Program

The following language shall be made part of the contract of assistance with the state or other public body charged with allocation and administration of funds provided under Section 5311 of the Act:

A. General Application

The public body ("Applicant") agrees that, in the absence of waiver by the Department of Labor, the terms and conditions of this warranty, as set forth below, shall apply for the protection of the transportation related employees of any employer providing transportation services assisted by the project ("Recipient"), and the transportation related employees of any other surface public transportation providers in the transportation service area of the project.

The public body shall provide to the Department of Labor and maintain at all times during the Project an accurate, up to date listing of all eligible transportation providers which are eligible recipients of transportation assistance funded by the Project, in the transportation service area of the Project, and any labor organizations representing the employees of such providers.

Certification by the Public Body to the Department of Labor that the designated Recipients have indicated in writing acceptance of the terms and conditions of the warranty arrangement will be sufficient to permit the flow of Section 5311 funding in the absence of a finding of non-compliance by the Department of Labor.

B. Standard Terms and Conditions

(1) The Project shall be carried out in such a manner and upon such terms and conditions as will not adversely affect employees of the Recipient and of any other surface public transportation provider in the transportation service area of the Project. It shall be an obligation of the Recipient and any other legally responsible party designated by the Public Body to assure that any and all transportation services assisted by the Project are connected for and operated in such a manner that they do not impair the rights and interests of affected employees.

The term "Project" as used herein, shall not be limited to the particular facility, service, or operation assisted by Federal funds, but shall include any changes, whether organizational, operational, technological, or otherwise, which are a result of the assistance provided. The phrase "as a result of the Project" shall when used in this arrangement, include events related to the Project occurring in anticipation of, during, and subsequent to the Project and any program of efficiencies or economies related thereto; provided, however, that volume rises and falls of business, or changes in volume and character of employment brought about by causes other than the Project (including any economies or efficiencies unrelated to the Project) are not within the purview of this arrangement.

An employee covered by this arrangement, who is not dismissed, displaced or otherwise worsened in his position with regard to his employment as a result of the project, but who is dismissed, displaced or otherwise worsened solely because of the total or partial termination of the Project, discontinuance of Project services, or exhaustion of Project funding shall be deemed eligible for a dismissal or displacement allowance within the meaning of paragraphs (6) and (7) of the Model agreement or applicable provisions of the substitute comparable arrangements.

(2) (a) Where employees of a Recipient are represented for collective bargaining purposes, all Project services provided by that Recipient shall be provided under and in accordance with any collective bargaining agreement applicable to such employees which is then in effect.

- (b) The Recipient or legally responsible party shall provide to all affected employees sixty (60) days notice of intended actions which may result in displacements or dismissals or rearrangements of the working forces. In the case of employees represented by a union, such notice shall be provided by certified mail through their representatives. The notice shall contain a full and adequate statement of the proposed changes, and an estimate of the number of employees affected by the intended changes, and the number and classifications of any jobs in the Recipient's employment available to be filled by such affected employees.
- (c) The procedures of this subparagraph shall apply to cases where notices involve employees represented by a union for collective bargaining purposes. At the request of either the Recipient or the representatives of such employees negotiations for the purposes of reaching agreement with respect to the application of the terms and conditions of this agreement shall commence immediately. If no agreement is reached within twenty (20) working days from the commencement of negotiations, any party to the dispute may submit the matter to dispute settlement procedures in accordance with paragraph (4) of this warranty. The foregoing procedures shall be compiled with and carried out prior to the institution of the intended action.
- (3) For the purpose of providing the statutory required protections including those specifically mandated by Section 5333(b) of the Act*, the Public Body will assure as a condition of release of funds that the Recipient agrees to be bound by the terms and conditions of the National (Model) Section 5333(b) Agreement executed July 23, 1975, identified below**, provided that other comparable arrangements may be substituted therefor, if approved by the Secretary of Labor and certified for inclusion in these conditions

- **) For purposes of this warranty arrangement, paragraphs (1); (2); (5); (15); (22); (23; (23; (26); (27); (28); and (29) of the Model Section 5333(b) agreement, executed July 23, 1975 are to be omitted.
 - (4) Any dispute or controversy arising regarding the application, interpretation, or arrangement which cannot be settled by and between the parties at interest within thirty (30) days after the dispute or controversy first arises, may be referred by any such party to any final and binding disputes settlement procedure acceptable to the parties, or in the event they cannot agree upon such procedures, to the Department of Labor or an impartial third party designated by the Department of Labor for final and binding determination. The compensation and expenses of the impartial third party, and any other jointly incurred expenses, shall be borne equally by the parties to the proceeding and all other expenses shall be paid by the party incurring them.

In the event of any dispute as to whether or not a particular employee was affected by the Project, it shall be his obligation to identify the Project and specify the pertinent facts of the Project relied upon. It shall then be the burden of either the Recipient or other party legally responsible for the application of these conditions to prove that factors other than the Project affected the employees. The claiming employee shall prevail if it is established that the Project had an effect on the employee even if other factors may also have affected the employee

^{*)} Such protective arrangements shall include, without being limited to, such provisions as may be necessary for (1) the preservation of rights, privileges and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise; (2) the continuation of collective bargaining rights; (3) the protection of individual employees against a worsening of their positions with respect to their employment; (4) assurances of employment to employees of acquired mass transportation systems and priority of re-employment of employees terminated or laid off; and (5) paid training and retraining programs. Such arrangements shall include provisions protecting individual employees against a worsening of their positions with respect to their employment which shall in no event provide benefits less than those established pursuant to Section 5(2) (f) of the Act of February 4, 1887 (24 Stat. 379), as amended.

- (5) The Recipient or other legally responsible party designated by the Public Body will be financially responsible for the application of these conditions and will make necessary arrangements so that any employee covered by these arrangements, or the union representative of such employee, may file claim of violation of these arrangements with the Recipient within sixty (60) days of the date he is terminated or laid off as a result of the Project, or within eighteen (18) months of the date his position with respect to his employment is otherwise worsened as a result of the project. In the latter case, if the events giving rise to the claim have occurred over an extended period, the 18 month limitation shall be payable for any period prior to six (6) months from the date of the filing of any claim.
- (6) Nothing in this arrangement shall be construed as depriving any employee of any rights or benefits which such employee may have under existing employment or collective bargaining agreements, nor shall this arrangement be deemed a waiver of any rights of any union or of any represented employee derived from any other agreement or provision of federal, state or local law.
- (7) In the event any employee covered by these arrangements is terminated or laid off as a result of the Project, he shall be granted priority of employment or re-employment to fill any vacant position within the control of the Recipient for which he is, or by training or retraining within a reasonable period can become qualified. In the event training or retraining is required by such employment or re-employment, the Recipient or other legally responsible party designated by the Public Body shall provide for such training or retraining at no cost to the employee.
- (8) The Recipient will post, in a prominent and accessible place, a notice stating that the Recipient has received federal assistance under the Federal Transit Act and has agreed to comply with the provisions of Section 5333(b) of the Act. This notice shall also specify the terms and conditions set forth herein for the protection of employees. The Recipient shall maintain and keep on file all relevant books and records in sufficient detail as to provide the basic information necessary to the proper application, administration and enforcement of these arrangements and to the proper determination of any claims arising thereunder.
- (9) Any labor organization which is the collective bargaining representative of employees covered by these arrangements may become a party to these arrangements by serving written notice of its desire to do so upon the Recipient and Department of Labor. In the event of any disagreement that such labor organization represents covered employees, or is otherwise eligible to become a party to these arrangements, as applied to the Project, the dispute as to whether such organization shall participate shall be determined by the Secretary of Labor.
- (10) In the event the Project is approved for assistance under the Act, the foregoing terms and conditions shall be made part of the contract of assistance between the federal government and the Public Body or Recipient of federal funds; provided, however, that this arrangement shall not merge into the contract of assistance, but shall be independently binding and enforceable by and upon the parties thereto, in accordance with its terms..

C. Waiver

As a part of the grant approval process, either the Recipient or other legally responsible party designated by the Public Body may in writing seek from the Secretary of Labor a waiver of the statutory required protections. The Secretary will waive these protections in cases, where at the time of the requested waiver, the Secretary determines that there are no employees of the Recipient or of any other surface public transportation providers in the transportation service area who could be potentially affected by the project. A 30 day notice of proposed waiver will be given by the Department of Labor and will in the absence of timely objection, the Department of Labor will review the matter and determine whether a waiver shall be granted. In the absence of a waiver, these protections shall apply to the project.